

## **The Income Tax Act, 2002 (2058)**

### Date of Royal Assent and Publication:

1 April 2002 (2058.12.19)

<u>Amending Acts:</u>	<u>Date of Authentication and Publication</u>
1. Some Nepal Laws Amendment Act, 2006 (2063)	14 October 2006 (2063.06.28)
2. The Republic Strengthening and Some Nepal Laws Amendment Act, 2010(2066) <sup>1</sup>	21 January 2010 (2066.10.07)
3. Some Nepal Laws Amendment Act, 2016(2072)	25 February 2016 (2072.11.13)
4. The Financial Act, 2018 (2075)	16 July 2018 (2075. 03.32)
5. Some Nepal Laws Amendment Act, 2019 (2075)	03 March 2019 (2075.11.19)
6. The Financial Act, 2019 (2076)	15 July 2019 (2076.03.30)
7. The Financial Act, 2020 (2077)	29 June 2020 (2077.03.15)
8. The Financial Act, 2021 ( 2078)	29 September 2021(2078.6.13)

### Act No. 22 of the year 2058 (2002)

<sup>2</sup> .....

### **An Act Made to Amend and Consolidate Laws Relating to Income Tax**

Preamble: Whereas, it is expedient to make timely the laws relating to income tax by amending and consolidating them in order to enhance

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<sup>1</sup> This Act came into force on 28 May 2008.

<sup>2</sup> Removed by the Republic Strengthening and Some Nepal Laws Amendment Act, 2010.

revenue mobilization by making the process of collecting revenue effective for the economic development of the country;

Now, therefore, be it enacted by Parliament in the first year of reign of His Majesty King Gyanendra Bir Bikram Shah Dev.

## Chapter-1

### Preliminary

1. Short title and commencement: (1) This Act may be cited as the “Income Tax Act, 2002.”

(2) This Act shall come into force throughout <sup>3</sup>..... Nepal and shall also apply to residents residing wherever outside <sup>4</sup>..... Nepal.

(3) This Act shall come into force immediately.

2. Definitions: Unless the subject or the context otherwise requires in this Act, -

(a) "Person withholding advance tax" means a person with a duty to withhold advance tax pursuant to Chapter-17 in making payments for employment, investment return, service charge and contract or agreement, as well.

(b) "Officer" means the Director General, Deputy Director General, Chief Tax Administrator, Director, Chief Tax Officer, Tax Officer and other Officers in the Department, as referred to in Section 72.

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<sup>3</sup> Removed by the Republic Strengthening and Some Nepal Laws Amendment Act, 2010.

<sup>4</sup> Removed by the Republic Strengthening and Some Nepal Laws Amendment Act, 2010.

- (c) "Payment from which tax is withheld finally" means any dividend, rent, profit, interest and payment from which tax has to be withheld made to the non-resident person, as referred to in Section 92.
- (d) "Retirement fund" means an entity established with the sole objective to accept retirement contribution fund for making retirement payments from the fund to the entity's beneficiary individuals or their dependents, and invest such funds.
- (e) "Retirement payment" means any payment made to the following person:
  - (1) Payment made to an individual where such person has got retirement, or
  - (2) Payment to the dependent of an individual where such person has died.
- (f) "Retirement contribution fund" means any payment made to a retirement fund for provisions of retirement payment or for future provisions thereof.
- (g) "Incapacitated person" means a person who is not capable of making his or her dealings because of physical or mental illness.
- (h)<sup>5</sup> "Income" means an income earned by any person from employment, profession, investment or windfall gain and the term also includes the total amount of that income calculated in accordance with this Act.

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<sup>5</sup> Amended by the Financial Act, 2018.

- <sup>6</sup>(h1) "Windfall gain" means a gain obtained by means of lottery, gift, prize, tips, share of earning in a game (*Jitauri*) or any other gain acquired incidentally.
- (i) "Income year" means a period from the first day of Shrawan (15 July) of any year to the last day of Ashad (14 July) of the next year.
- (j) "Gift" means any payment made without any consideration or in the case of any payment with consideration, where the market value of payment exceeds the market value of consideration, payment to the extent of such excess.
- (k) "Debt liability" means the liability equivalent to the debt claim.
- (l) "Debt claim" means the right of any person to receive payment from another person, and the term also includes the right of any person to have repaid a loan lent by such person to another person, the right to receive deposits made in a bank and financial institution, to receive sums to which such person is entitled and to receive moneys from the sale of debentures, bills of exchange, bonds, rights under annuities, financial lease and installments.
- (m) "Company" means any company incorporated under the prevailing company law, and for the purpose of tax the following institutions shall also be treated as if they were companies:

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<sup>6</sup> Inserted by the Financial Act, 2018.

- (1) Any corporate body established under the laws in force;
  - (2) Any unincorporated union, board, association or society or sole proprietorship whether incorporated or not and any group of persons or trust except a partnership;
  - (3) Any partnership firm, retirement fund, cooperative institution, unit trust, joint venture, consisting of twenty or more partners whether registered or not under the law in force;
  - (4) Any foreign company;
  - (5) Any other foreign institution as specified by the Director General.
- (n) "Tax" means the tax chargeable under this Act, and this term includes the following payments:
- (1) The expenditures referred to in clause (a) of sub-section (8) of Section 104 as incurred by the Department for any claim in respect of, and auction sale of, the property in which the tax is due and outstanding,
  - (2)<sup>7</sup> The amount payable by the person withholding advance tax or the person subject to tax withholding under Section 90 or the amount payable by the person making payment in installment under Section 94 or the amount payable by the person withholding advance tax under Section 95A. or the amount payable after the tax assessment under Sections 99, 100 and 101,

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<sup>7</sup> Amended by the Financial Act, 2018.

- (3) The amount payable to the Department in respect of tax liability of the third party under sub-section (2) of Section 107, sub-section (3) or (4) of Section 108, sub-section (1) of Section 109, sub-section (1) of Section 110,
  - (4) The amount referred to in Chapter-22 payable for a fee and interest, and
  - (5) The amount of fine referred to in Section 129 required to be paid as per the order of the Department.
- (o) "Person subject to tax withholding" means any person who receives payment or has the right to receive payment by withholding tax under Chapter-17 in making payment for employment, investment return, service fee or contract or agreement.
- (p) "Tax assessment" means the assessment of tax to be made under this act and this term includes the assessment of a fee and interest under Section 122.

Provided that this term does not mean the previous tax assessment substituted by the amended tax assessment under Section 101.

- <sup>8</sup>(p1) "Transaction" means a transaction equal to the total amount included pursuant to Section 7, 8 or 9 for the purpose of calculation of income of employment, business or investment in any income year.

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<sup>8</sup> Inserted by the Financial Act, 2018.

- (q) "Non-resident person" means any person save the resident person.
- (r) <sup>9</sup>"Non-business taxable assets" means any land, building and interest or security in any entity except the following properties:
- (1) Business assets, depreciable assets or stocks-in-trade,
  - (2) A private building owned by an individual in the following situation:-
    - (a) Being under ownership for a continuous period of ten years or more, and
    - (b) Where that person has resided for a total period of ten years or more continuously or at several times,  
Explanation: For the purpose of this clause, "private building" means <sup>10</sup>building, land occupied by the building and additional land of equal area occupied by the building or one *Ropani* of land whichever is lesser.
  - (3) Any interest of any beneficiary in retirement fund,
  - (4) A land, land with building and private building belonging to and disposed of by any individual for a value less than ten lakh rupees, or

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<sup>9</sup> Amended by the Financial Act, 2018.

<sup>10</sup> Amended by the Financial Act, 2021.

(5) Any asset disposed of by way of transfer in any manner other than the purchase and sale within three generations.

(s)<sup>11</sup> "Organization entitled to enjoy exemption" means the following entity:

(1) The following entities registered in the Department as organizations entitled to enjoy exemption:

(a) a social, religious, educational or benevolent organization of public nature established with non-profit motive,

(b) an amateur sports organization so formed with a view to promoting social or sports related facilities that the organization or its members does not derive profits,

(2) A political party registered in the Election Commission,

Provided that if any person has derived any benefit from the property of that organization and the monies obtained from that organization except in making payment for the property or the service provided by any person to that organization or in discharging functions in consonance with the objective of the organization entitled to exemption, tax exemption shall not be granted.

(t) "Trust" means an arrangement whereby a trustee holds any property.

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<sup>11</sup> Amended by the Financial Act, 2018.

Provided that this term does not include a partnership, corporate body or organization referred to in sub-clause (3) of clause (m).

(u) "Trustee" means an individual, trust (*Guthi*) or other body corporate who, individually or jointly with other individual, trust (*Guthi*) or corporate body, holds a property in trust, and the term also includes the following person:

- (1) The operator or administrator of the assets of a deceased,
- (2) A liquidator, recipient or trustee,
- (3) Any person who protects, directs, controls or manages the assets of an incapacitated person in personal or official capacity,
- (4) Any person who manages the assets under a private enterprise or similar other enterprise, and
- (5) Any other person in a position similar to that of the person as referred to in clauses (1), (2), (3) and (4).

(v) "Long-term contract" means a contract referred to in Section 26 of which validity period is more than twelve months.

(w) "Relative" means an individual's husband, wife, son, daughter (adopted son, daughter as well), father, mother, grand-father, grand-mother, elder brother, younger brother, sister-in-law, daughter-in-law, elder sister, younger sister, father-in-law, mother-in-law, brother-in-law, elder brother-in-law, wife's

sister, uncle, aunt, nephew, niece, grand-son and grand-daughter.

(x) "Entity" means the following organization or body:

- (1) A partnership, trust or company,
- (2) <sup>12</sup>Rural Municipality, Municipality or District Coordination Committee,
- (3) <sup>13</sup>Government of Nepal, Provincial Government or Local Level,
- (4) Any foreign government or provincial or local government under that government or a public international organization established by any treaty, or
- (5) A permanent establishment of the organization or body referred to in clauses (1), (2) (3) and (4),<sup>14</sup> which is not situated in a country of which it is a resident.

(y) "Interest in entity" means and includes the contingent right to receive income or capital of any entity.

(z) "Disposal" means a disposal inclusive of the sale or transfer of any property or liability as mentioned in Section 40.

(aa) "Vested ownership" means the following ownership:

- (1) In the case of any entity, ownership created on the basis of the interest which any individual or any entity in which an individual has no interest has in that entity

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<sup>12</sup> Amended by the Financial Act, 2018.

<sup>13</sup> Amended by the Financial Act, 2018.

<sup>14</sup> Amended by the Financial Act, 2018.

directly or indirectly through one or more interposed entities, or

- (2) In the case of the assets owned by any entity, ownership of the assets as determined in proportion to the ownership of the persons who have vested ownership in that entity.
- (ab) "Lease" means the provisional right of any person to enjoy or use any property except movable property belonging to another person, and the term also includes a license, rent agreement, trenches, royalty agreement or right of a lessee/tenant.
  - (ac) "Individual" means an individual, and, for the purposes of this Act this term also includes a sole proprietorship owned by an individual, whether registered or not, and a spouse so selected under Section 50 as to be considered as the single individual.
  - (ad) "Payment for natural resources" means an amount of any of the following payments:
    - (1) <sup>15</sup>Amounts received for having right to extract water, minerals or other living and non-living resources from the earth, or
    - (2) <sup>16</sup>Amounts calculated on the basis of the quantity or value of living or non-living resources of the natural

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<sup>15</sup> Amended by the Financial Act, 2018.

<sup>16</sup> Amended by the Financial Act, 2018.

resources and minerals extracted from the earth, in full or in part.

- (ae) "Market value" means ordinary transaction value of any property or service in the ordinary course of trade between unrelated persons in respect of such property or service.
- (af) <sup>17</sup>"Rent" means a premium/sum received for the house rent as well as for the lease of a tangible property and payment for the provision of that lease.

Provided that this term does not include any payment made for natural resources or amount received by the individual as a rent of house except for private/sole firm.

- (ag) "Payment" means the following activities:
  - (1) If the money or property owned by any one person is transferred to another person and the liability of any other person is transferred to that person,
  - (2) If the ownership over any property created by any person devolves on another person after the creation of that property or if any person bears the onus of liability of another person,
  - (3) If any person delivers service to another person,
  - (4) If any person uses any property owned by another person or such property is available for such use.

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<sup>17</sup> Amended by the Financial Act, 2018.

- (ah) "Distribution of profit" means the distribution of profits of any entity made pursuant to Section 53, including the capitalization of profits.
- (ai) "Unit trust" means a trust to be divided on the basis fixed with the number of the units holding the right of the persons entitled to participate in income or capital, with a provision that the trustee holds property for the benefits of at least twenty persons.
- (aj) "Employment" means any kind of past, present or future employment.
- (ak) "Royalty" means any payment made under the lease of any intangible property, and the term also includes any payment made for the following purpose:
- (1) To use or have the right to use a copyright, patent, design, model, plan, secret formula or process or trademark,
  - (2) To render technical know-how,
  - (3) To provide the right to use any motion picture film, video tape, sound recording or similar other means and <sup>18</sup>to use or render industrial, business or scientific experience,
  - (4) To render any assistance in a manner to be ancillary to the matters referred to in clauses (1), (2), or (3), or

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<sup>18</sup> Amended by the Financial Act, 2018.

- (5) To have full or partial restrictions on the matters referred to in (1), (2), or (3) or (4).

Provided that the term does not mean any payment made for natural resources.

- (al) <sup>19</sup>"Investment" means the act of holding one or more properties or investing such properties, except the following:

- (1) Holding any property used by the owner in personal use, or
- (2) Employment or occupation.

Provided that the act of holding any non-business taxable assets is considered as investment.

- (am) "Investment insurance" means any of the following insurance:

- (1) An insurance against the death of the insured or of the associated person of the insured,
- (2) An insurance against personal injuries of the insured or his associated person or against any event leading to incapacity in any particular manner,

Provided that the validity period of the insurance contract shall be at least five years or the contract shall be without any validity period and the

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<sup>19</sup> Amended by the Financial Act, 2018.

contract is so made that it cannot be terminated by the insurer prior to expiration of a period of five years except in exceptional circumstances.

- (3) An insurance so made that any money or series of moneys are paid to the insured in the future,
  - (4) Reinsurance of the insurance referred to in clause (1), (2) or (3), or
  - (5) Reinsurance of the reinsurance referred to in clause (4).
- (an) "Dividend" means the distribution to be made by an entity.
- (ao) "Resident person" means the following person in respect of any income year:
- (1) In respect of an individual,
    - (a) Whose normal abode is in Nepal,
    - (b) Who has resided in Nepal for 183 days or more during a continuous period of 365 days<sup>20</sup> ....., or
    - (c) Who is deputed by the Government of Nepal to a foreign country in any time of the income year.
  - (2) A partnership firm,
  - (3) In respect of a trust, such trust

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<sup>20</sup> Removed by the Financial Act, 2018.

- (a) Which is established in Nepal,
  - (b) The trustee of which is a resident person in an income year,<sup>21</sup> or
  - (c) Which is controlled by a resident person or by a group of persons comprising such a person, directly or through one or more interposed entities,
- (4) In respect of a company, such company,
- (a) Which is incorporated under the law of Nepal,<sup>22</sup> or
  - (b) Management of which is effective in Nepal in any income year.
- <sup>23</sup>(4a) Government of Nepal or Provincial Government,
- (5) <sup>24</sup>Rural Municipality, Municipality, or District Coordination Committee,
- (6) In respect of an entity of any foreign government or provincial<sup>25</sup> or local government under that government, such entity,
- (a) Which is established under the laws of Nepal,
  - or

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<sup>21</sup> Inserted by the Financial Act, 2018.

<sup>22</sup> Inserted by the Financial Act, 2018.

<sup>23</sup> Inserted by the Financial Act, 2018.

<sup>24</sup> Inserted by the Financial Act, 2018.

<sup>25</sup> Inserted by the Financial Act, 2018.

(b) Management of which is effective in Nepal in any income year.

(7) An organization or entity established under any treaty or agreement, and

(8) A foreign permanent establishment of a non-resident person situated in Nepal.

(ap) "Person" means an individual or entity.

(aq) "Manager" means any person involved in making managerial decisions of any entity, and the term also includes a trustee of any trust and a person having ownership in a foreign permanent establishment.

(ar) "Occupation" means any kind of industry, business, profession or business transactions of similar other nature, and the term also includes past, present or future occupations of similar type.

Provided that this term does not include employment.

(as) "Interest" means the following payment or profit:

(1) Payment under debt liability except the principal,

(2) Profit made from concession, <sup>26</sup>concession under credit liability, premium, alteration payment or from similar payment, and

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<sup>26</sup> Amended by the Financial Act, 2018.

(3) The amounts referred to in Section 32 receivable as an interest out of the payment to be made by a person who acquires any property under annuities or installment sale or of the payment made to any person for the use of any property under a financial lease.

(at) "Stock-in-trade" means the property owned by any person and <sup>27</sup>..... to be sold in the course of regular business carried on by such person, the property in work-in-progress and the inventory of materials to be incorporated in the property.

Provided that this term does not include a property held in foreign currency.

(au) "Business asset" means any property used in any occupation.

Provided that this term does not mean stock-in-trade or depreciable assets of the occupation.

(av) "Distribution" means a distribution to be made by any entity as referred to in Section 53.

<sup>28</sup>(av1) "Electronic means" means computer, fax, email, internet, electronic cash machine and fiscal printer, and this term also includes other approved means as specified by the Department.

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<sup>27</sup> Removed by the Financial Act, 2018.

<sup>28</sup> Inserted by the Financial Act, 2018.

- (aw) "Income sent abroad" means an income required to be sent abroad by a foreign permanent establishment of a non-resident person situated in Nepal as referred to in Section 68, which has been sent abroad through a bank or paid in any other manner.
- (ax) "Foreign income tax" means a foreign income tax referred to in sub-section (8) of Section 69 levied by any foreign country.
- (ay) "Foreign permanent establishment" means an entity referred to in <sup>29</sup>sub-clause (5) of clause (x).
- (az) "Department" means the Inland Revenue Department.
- (aaa) "Property held in foreign currency" means any property held in a foreign currency other than Nepalese rupees.
- (aab) "Permanent establishment" means a place where any person carries on a business fully or partly, and the term includes the following place:
- (1) A place where any person carries on a business fully or partly, through any agent except a general agent who acts independently in the ordinary course of carrying on business,
  - (2) A place where any person's main equipment or main machinery is situated or used or installed,

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<sup>29</sup> Amended by the Financial Act, 2018.

(3) One or more than one place in any country where any person has delivered technical, professional or consultancy service through an employee or in any other manner for more than ninety days at one or several times in a period of any twelve months, or

(4) A place where any person is involved in a construction, installation or establishment project and has carried out supervisory works of that project for a period of ninety days or more.

(aac) "Property" means a tangible or intangible property of any kind, and the term also includes currency, good-will, technological knowledge, assets, any person's ownership or interest in a foreign branch, a right to make income or acquire income in the future and any part of such property.

(aad) "Associated person" means any one or more than one person or group of persons who act as per the intention of each other, and the term also includes the following persons:

(1) An individual and relative of that person or any person or a partner of that person,

(2) A foreign permanent establishment and a person having ownership in that establishment, and

(3) Any entity which by itself or jointly with any other person related with it or with an assisting entity or any other person or entity related with such assisting entity controls fifty percent or more of the income, capital or voting right of any entity or derives benefits therefrom.

Provided that the following person shall not be an associated person:

(1) An employee,

(2) A person specified by the Department as a non-associated person.

<sup>30</sup>(aad1) "Adjusted taxable income" means the taxable income of any person for any income year calculated without reducing any amount under Section 12 or without any deduction under sub-section (2) of Section 14, Section 17 or 18.

(aae) "Partnership" means a firm consisting of less than twenty partners, whether registered under the law in force or not.

Provided that this term does not include a sole proprietorship or joint venture, whether registered or not.

(aaf) "General insurance" means an insurance other than investment insurance.

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<sup>30</sup> Inserted by the Financial Act, 2018.

- (aag) "General interest rate" means the rate of interest by fifteen percent per annum.
- (aah) "Approved retirement fund" means a retirement fund having obtained approval from the Department pursuant to sub-section (1) of Section 63.
- (aai) "Service charge" means any charge paid to any person, according to the market value, for the service rendered by such a person, and the term also includes any<sup>31</sup> .....meeting allowance, management fee or technical service charge.
- (aaj) "Shareholder" means a beneficiary of any company.
- (aak) "Depreciable property" means a property, which is used in any business or investment for earning income, and declines in value because of wear and tear, being old or passage of time.

Provided that the term does not mean stock-in-trade.

- (aal) "Beneficiary" means a person who has an interest<sup>32</sup>referred to in clause (y) in any entity.
- (aam) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

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<sup>31</sup> Removed by the Financial Act, 2021.

<sup>32</sup> Amended by the Financial Act, 2018.

## Chapter-2

### Tax Bases

3. Tax to be levied: Tax shall be levied on each of the following persons in each income year and be collected pursuant to this Act:

- (a) A person who has taxable income in any income year,
- (b) A non-resident person's foreign permanent establishment situated in Nepal, which sends income of any income year pursuant to sub-sections (3) and (4) of Section 68, and
- (c) A person who receives payment final tax withholding in any income year.

<sup>33</sup>3A.....

4. Computation and rate of tax: <sup>34</sup>(1) The amount of tax required to be paid by any person referred to in Section 3 for any income year shall be equal to the total amount of tax required to be paid by such person in the capacity of any one person or more than one person mentioned in clauses (a), (b) and (c) of that Section.

(2) In computing the tax required to be paid by any person referred to in clause (a) of Section 3, it shall be computed by applying the related rates mentioned in Schedule-1 to the taxable income of that person. In so computing the tax, it shall be computed

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<sup>33</sup> Repealed by the Republic Strengthening and Some Nepal Laws Amendment Act, 2010.

<sup>34</sup> Amended by the Financial Act, 2018.

by deducting the amount that is adjustable in tax, and claimed by that person pursuant to Section 51 or 71 <sup>35</sup>or both.

(3) Notwithstanding anything contained in sub-section (2), the tax payable by a resident individual referred to in clause (a) of Section 3, who has fulfilled all of the following requirements, shall be equal to the total amount of tax deducted pursuant to Section 87 from the payments made by the employer to such an individual in that income year:

- (a) Only the income of any employment having source in Nepal is included in the income of that income year,
- (b) All employers have become non-resident persons in that income year and there is only one employer at one time, and
- (c) <sup>36</sup>The employer has made a claim for the adjustment of tax for medical expenses and retirement contribution paid by him and not of the expenses for donation under Section 12.

(4) Notwithstanding anything contained in sub-section (2), tax payable in any income year by a resident individual referred to in clause (a) of Section 3, who has fulfilled all of the following requirements, shall be equal to the amount mentioned in sub-section (7) of Section (1) of Schedule -1:

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<sup>35</sup> Inserted by the Financial Act, 2018.

<sup>36</sup> Amended by the Financial Act, 2018.

(a) That person has only income earned from his business having source in Nepal in that income year,

<sup>37</sup>(a1) Not claimed for tax adjustment for medical expenses under Section 51 and for advance tax deduction under Section 93,

(b) <sup>38</sup>The income earned from the business that does not exceed three hundred thousand rupees and turnover of the business that does not exceed three lakh rupees,

(c) <sup>39</sup> .....,

(d) <sup>40</sup> ..... <sup>41</sup>

(4a)<sup>42</sup> Notwithstanding anything contained in sub-section (2), the tax to be paid by an individual referred to in clause (a) of Section 3 who has met the following conditions on the basis of transaction in any income year shall be equal to the amount calculated according to the rate prescribed in sub-section (17) of Section 1 of Schedule-1:

(a) that person has income only from the source of occupation in Nepal in that income year,

<sup>43</sup>(b) up to ten lakh rupees taxable income from the occupation and the annual turnover of the occupation is

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<sup>37</sup> Inserted by the Financial Act, 2018.

<sup>38</sup> Amended by the Financial Act, 2021.

<sup>39</sup> Removed by the Financial Act, 2021.

<sup>40</sup> Inserted by the Financial Act, 2018.

<sup>41</sup> Removed by the Financial Act, 2021.

<sup>42</sup> Inserted by the Financial Act, 2018.

<sup>43</sup> Amended by the Financial Act, 2021.

more than thirty lakh rupees and less than one crore rupees,

(c) <sup>44</sup> .....

(d) income not for consultancy and expertise service to be provided by doctor, engineer, chartered accountant, legal professional, sportsperson, actor, consultant like individuals.

(5) In computing the tax required to be paid by any foreign permanent establishment referred to in clause (b) of Section 3, it shall be computed by applying the related rates mentioned in sub-section (6) of Section 2 of Schedule-1 to the income sent abroad by such establishment in that income year.

(6) The amount of tax required to be paid by the person referred to in clause (c) of Section 3 shall be equal to the total amount computed by applying the rates mentioned in <sup>45</sup>Sections 87, 88, 88A. and 89 to the amount of each payment liable to final tax deduction received by that person in that income year.

5. Taxable income and classification of income headings: The taxable income of any person in any income year shall be equal to the amount computed by subtracting the amount, if any, claimed pursuant to <sup>46</sup>Sections 12, 12A., 12B., 12 C., 63 or all these Sections from the grand total amount of assessable income of each of the following income headings in that income year:

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<sup>44</sup> Removed by the Financial Act, 2021.

<sup>45</sup> Amended by Financial Act, 2018.

<sup>46</sup> Amended by the Financial Act, 2021..

- (a) Business,
- (b) Employment,<sup>47</sup> .....
- <sup>48</sup>(c) Investment, and
- <sup>49</sup>(d) Windfall gain.

6. <sup>50</sup>Assessable income: Subject to this Act, the following incomes earned by any person for any business, employment, investment or windfall gain in any income year shall be considered assessable income:

- (a) Income earned by any resident person from his employment, business or investment in that income year irrespective of the place of his source of income, and
- (b) Income earned in that income year by any non-resident person from employment, business or investment having income source in Nepal.

Provided that the assessable income shall not include any income exempted from tax pursuant to Section 11 or 64.

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<sup>47</sup> Removed by the Financial Act, 2018.

<sup>48</sup> Amended by the Financial Act, 2018.

<sup>49</sup> Inserted by the Financial Act, 2018.

<sup>50</sup> Amended by Financial Act, 2018.

## Chapter-3

### Computation of Tax

7. Computation of income from business: (1) The profits and benefits made by any person in any year from any business shall be <sup>51</sup> the income of that business of that person in that income year.

(2) In computing the profits and benefits earned by any person from the business in any income year, it shall be computed so as to include the following amounts received by that person within that year:

- (a) Service charge,
- (b) Amount obtained from the disposal of stock-in-trade,
- (c) Net profit derived from the business assets or business liability of any person computed pursuant to Chapter-8,
- (d) Amount considered to have been derived pursuant to clause (a) of sub-section (2) of Section 4 of Schedule-2 from the disposal of depreciable property of the business,
- (e) Gift received from any person in respect of the business,
- (f) Amount received for having accepted any restriction in respect of the operation of the business,
- (g) Notwithstanding that the amount received by any person is of such nature that it is included in income from

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<sup>51</sup> Amended by the Financial Act, 2018.

investment, the amount received by such a person being directly related with his business, and

(h) Other amounts liable to be included pursuant to Chapter-6 or 7 or Section 56 or 60.

(3) Notwithstanding anything contained in sub-section (2), the amounts deductible under Sections 10, 54 and 69 and payments from which tax is withheld finally may not be included in computing the profits and benefits derived from the operation of business.

8. Computation of income earned from employment: (1) The remuneration derived by any individual from employment in any income year shall be computed as the income earned by that person in that year.

(2) The following payments made by an employer to an individual in any income year shall be included in computing the remuneration earned by such individual from employment in that income year:

(a) Amount for wages, salary, leave, amount for overtime work, fee, commission, prize, gift, bonus, and payment for other facilities,

(b) Payment for any personal allowance including amount for dear allowance, subsistence allowance, entertainment and transport allowance,

(c) Payment received for settlement of or reimbursement of expenses incurred by him or his associated person for personal purpose,

- (d) Payment made for having given consent to any terms of employment,
  - (e) Payment made for termination, loss of employment, or for compulsory retirement,
  - (f) Retirement payment and retirement contribution including the amount deposited by the employer for that employee in the retirement fund,
  - (g) Other payments made in respect of employment, and
  - (h) Other amounts required to be included pursuant to Chapter-6 or 7.
- (3) Notwithstanding anything contained in sub-section (2), the following matters need not be included in computing the remuneration earned by any individual from employment:
- (a) The amounts deductible under Sections 10 and payment from which tax is withheld finally,
  - (b) Food and tiffin provided by the employer to the employee at the work site in a manner that it is available to all employees on the same terms,
  - (c) The settlement or reimbursement of the following expenditure incurred by any employee:
    - (1) The expenditure fulfils the business purpose of the employer, or

(2) The expenditure exempted or to be exempted in the computation of the income earned from investment.

(d) Payment of such petty amounts of which accounts are impracticable to be maintained or difficult to be maintained administratively as prescribed.

Explanation: For purposes of this Section, "payment" means the payment:

(a) made by the employer,

(b) made by the associated person of the employer, and

(c) made by any third person as referred to in the agreement made with the employer or his associated person.

9. Computation of income earned from investment: (1) The profits and benefits derived by any person from investment in any income year <sup>52</sup>shall be the income earned by that person from investment in that year.

(2) The following amounts received by any person in any income year shall be included in computing the profits and benefits derived by that person from investment in that income year:

(a) Dividend, interest derived from that investment, payment for natural resources, rent, royalty, profit from investment

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<sup>52</sup> Amended by the Financial Act, 2018.

insurance, profit from interest in a retirement fund which has not got approval pursuant to sub-section (1) of Section 63 or retirement payment made from the approved retirement fund,

- (b) Net profits derived from the disposal of non-business taxable assets of the investment of that person, computed pursuant to Chapter-8,
- (c) If, in disposing the depreciable property of the investment made by that person, the incomings to be received exceed the remaining value comprising the outgoings made for the property of the group of depreciable property pursuant to clause (a) of sub-section (2) of Section 4 of Schedule-2, the excess amount,
- (d) Gift received by that person in respect of investment,
- (e) Retirement payment made in respect of that investment and retirement contribution including the amount deposited in the retirement fund for that person,
- (f) Amounts received for having accepted any restriction in respect of investment, and
- (g) Other amounts required to be included pursuant to Chapter-6 or 7 or Section 56.

(3) Notwithstanding anything contained in sub-section (2), the following matters shall not be included in computing profits and benefits derived by any person from investment:

- (a) The amounts deductible under Sections 10, 54 and 69 and payment from which tax is withheld finally, and
- (b) The amounts to be included in computing income by that person from employment or business.

#### Chapter-4

#### Exemptible Amounts and Other Exemptions

10. Exemptible amounts: The following amounts shall be exempted from tax:

- (a) Amount exempted from tax granted to any person entitled to tax exemption facility as provided for in a bilateral or multilateral <sup>53</sup>treaty or agreement concluded between the Government of Nepal and any foreign country or international organization,
- (b) Amount received by any individual for doing employment in the governmental service of a foreign country,

Provided that-

- (1) The person has to be a resident or non-resident person only because of doing employment, and
  - (2) Such amounts have to be paid from the governmental fund of that country.
- (c) Amount received by an individual referred to in clause (b) who is not a citizen of Nepal or by his nearest family member from the governmental fund of a foreign country,

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<sup>53</sup> Amended by Financial Act, 2018.

- (d) Amount received by a non-Nepalese citizen appointed in the service of The Government of Nepal under the term and condition of tax exemption,
- (e) <sup>54</sup>All kinds of allowances provided by the Government of Nepal, Provincial Government or Local Level as social security,
- (f) Amounts received as gift, inheritance or scholarship except the amounts required to be included in computing income pursuant to Section 7, 8 or 9,
- (g) Amounts received by an organization entitled to exemption for the following:
  - (1) Donation, gift,
  - (2) Other contributions directly related with an organization entitled to exemption as referred to in clause (d) of Section 2 without having consideration or without hoping for such contribution, or
  - (3) <sup>55</sup> .....
- (h) Amount received for pension by a Nepalese citizen having retired from the military or police service of a foreign country from the governmental fund of that country,
- (i) <sup>56</sup>Any type of income of the Government of Nepal, Provincial Government or Local Level,

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<sup>54</sup> Amended by the Financial Act, 2018.

<sup>55</sup> Removed by the Financial Act, 2018.

<sup>56</sup> Inserted by the Financial Act, 2018.

(j) <sup>57</sup>Amounts earned by Nepal Rastra Bank in pursuance of its objective.

<sup>58</sup>(k) Amounts earned by water and sanitation consumer organizations registered pursuant to Water Resources Act, 2049 (1992) in accordance with its objective.

<sup>59</sup>(l) Amounts earned by mutual fund approved by Nepal Securities Board in accordance with its objective.

<sup>60</sup>(m) Amounts earned by educational institute having memorandum of understanding with the Government of Nepal or the concerned body of the Government of Nepal for not making profit or not distributing profit in accordance with its objective.

11. Professional exemptions and facilities: (1) No tax shall be levied on an income earned by carrying on an agricultural business by getting one registered as a firm, company, partnership and corporate body and on agricultural income other than that earned from an agricultural business in the land as referred to in clauses (d) and (e) of Section 12 of the Act Relating to Land, 2021(1964).

<sup>61</sup>Provided that fifty percent tax shall be exempted in earnings from the agriculture by any registered firm, company, partnership or corporate body.

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<sup>57</sup> Inserted by the Financial Act, 2018.

<sup>58</sup> Inserted by the Financial Act, 2020.

<sup>59</sup> Inserted by the Financial Act, 2021.

<sup>60</sup> Inserted by the Financial Act, 2021.

<sup>61</sup> Inserted by the Financial Act, 2021.

(2) <sup>62</sup>No tax shall be levied on the income of a cooperative organization and saving and credit cooperative organization or institution, which has been registered and operated under the Cooperatives Act, 2074 (2018) and which carries on professional forest related business like forest and agricultural industry as agricultural or forest based industries such as sericulture and silk production, fruits farming, production and fruits processing, animal husbandry, dairy industry, poultry farming, fishery, tea gardening and processing, coffee farming and processing, herbiculture and herb processing, vegetable seeds farming, bee keeping, honey production, rubber farming, leasehold forestry, agro-forestry etc., cold storage established for the storage of vegetables, agro-seeds, pesticides, fertilizers and agricultural inputs (except those operated with mechanical power), and <sup>63</sup>cooperative<sup>64</sup> in the area of the Rural Municipality or income of the federation. No tax shall also be levied on the dividends distributed by such organization or institution.

<sup>65</sup>(2a) No tax shall be levied in interest income up to twenty-five thousand rupees per year if it is generated from the deposits in a micro-financial institution, rural development bank, postal saving bank and cooperative pursuant to sub-section (2).

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<sup>62</sup> Amended by the Financial Act, 2018.

<sup>63</sup> Amended by the Financial Act, 2019.

<sup>64</sup> Removed by the Financial Act, 2020.

<sup>65</sup> Inserted by the Financial Act, 2018.

<sup>66</sup>(2b) Exemption from tax on the income earned by a special industry in full operation throughout the year in any income year shall be as follows:-

- (a) by one-thirds of the tax if tax is levied at the rate of thirty percent on the income of a resident individual,
- (b) by twenty percent on tax leviable on the income of an entity,
- (c) a person having enjoyed the facility under clause (a) or (b) shall also be entitled to such exemption and facility if the person is eligible to enjoy another tax exemption facility under this Section.

(3) <sup>67</sup>Tax shall be levied as follows on the income earned by any person from a special industry and information technology industry in any income year:

- (a) If the person gives direct employment to hundred or more Nepali citizens throughout the year, ninety percent of the rate of tax leviable on the income of that year, if the person gives direct employment to three hundred or more Nepali citizens throughout the year, eighty percent of the rate of tax leviable on the income of that year, if the person gives direct employment to five hundred or more Nepali citizens throughout the year, seventy-five percent of the rate of tax leviable on the income of that year, if the person gives direct employment to one thousand or more Nepali citizens

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<sup>66</sup> Inserted by the Financial Act, 2019.

<sup>67</sup> Amended by the Financial Act, 2018.

throughout the year, seventy percent of the rate of tax leviable on the income of that year,

Provided that additional ten percent exemption shall be provided if the person gives direct employment to one hundred or more Nepali citizens throughout the year including thirty-three percent from among women, *Dalits* or persons with disability.

- (b) If a special industry has been operated in remote, undeveloped and least<sup>68</sup> developed areas, respectively ten, twenty and thirty percent of the tax leviable on income of the years for up to ten years from the date of commencement of the commercial production or transaction by that<sup>69</sup> industry started operating.

Provided that the special industry established in the Karnali Province providing direct employment to more than hundreds of Nepali citizen shall be exempt from income tax for a period of fifteen years from the date of commencement of its transaction.

- (c) If an industry is established with an investment of more than one arb rupees and providing direct employment to more than five hundred, such special industry and tourism industry (except casino)<sup>70</sup> shall be provided with full income tax exemption for five years from the date of

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<sup>68</sup> Amended by the Financial Act, 2020.

<sup>69</sup> Amended by the Financial Act, 2020.

<sup>70</sup> Amended by the Financial Act, 2020.

starting of its transaction and fifty percent for the three years afterwards,

Provided that if the industry in operation at present increases its installed capacity at least by twenty-five percent and making its capital two arb<sup>71</sup> rupees and provided direct employment to more than three<sup>72</sup> hundred, income tax exemption shall be provided in the income so earned from capacity enhancement for five years and fifty percent shall be exempted in tax for the three years afterwards.

<sup>73</sup>(3a) Exemption shall be made from the income tax in income of the industry established in special economic zone and tax on dividends distributed by such industry as follows:

- (a) The industry established in special economic zones in mountainous district and hilly district as specified by the Government of Nepal, such special industry shall be provided with hundred percent income tax exemptions for ten years from the date of starting of its transaction and fifty percent afterwards,
- (b) The industry established in special economic zones in other area except that mentioned in clause (a) by the Government of Nepal, such industry shall be provided with hundred percent income tax exemptions for five years from

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<sup>71</sup> Amended by the Financial Act, 2020.

<sup>72</sup> Amended by the Financial Act, 2020.

<sup>73</sup> Inserted by the Financial Act, 2018.

the date of starting of its transaction and fifty percent afterward,

- (c) Dividends distributed by the industry established in special economic zone, tax exemptions on such dividends shall be hundred percent for five years from the date of starting of its transaction and fifty percent for three years afterwards,
- (d) income by the foreign investors from foreign technology or management service charge or royalty in the industry established in special economic zone, fifty percent in such income tax,

<sup>74</sup>(3b) If a person having transaction in exploration and excavation of minerals, petroleum substance, natural gas and fuel<sup>75</sup> continues the commercial transaction till Chaitra of 2080 (mid-April of 2024), the whole income tax shall be exempted for the first seven years from the date of operation of its transaction and fifty percent exemption shall be granted for three years afterwards.

<sup>76</sup>(3c) The industry related to software development, data processing, cyber cafe, digital mapping established in the <sup>77</sup>operation of the zoological, geological, biotech related park, technological park specified by the Government of Nepal by a notification in the Nepal Gazette shall have fifty percent exemption from income tax.

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<sup>74</sup> Inserted by the Financial Act, 2018.

<sup>75</sup> Amended by the Financial Act, 2020.

<sup>76</sup> Inserted by the Financial Act, 2018.

<sup>77</sup> Amended by the Financial Act, 2020.

<sup>78</sup>(3d) The person having commercial transaction of electricity shall be provided with tax exemption as follows:

(a) The licensed person or entity commencing commercial production, transmission or distribution of hydropower, electricity produced from solar, wind and biological substance till Chaitra of 2080 (mid-March of 2024) shall be provided full income tax exemption for the first ten years and fifty percent exemption for another five years afterwards.

Provided that in the case of the hydropower projects of more than 200 MW capacity with reservoir and semi reservoir concluding financial closure till the month of Chaitra of 2082 (2026), full tax exemption shall be provide for first fifteen months and fifty percent tax exemption for further six years.

(b) Notwithstanding anything contained in clause (a), the license holder that has already commenced commercial production at the time of commencement of this sub-section, the provision prevailing at the time of issuance of the license shall apply.

<sup>79</sup>(3e) Tax exemption on income earned from export in any income year from a source in Nepal shall be as follows:

(a) if tax is chargeable at the rate of twenty percent on an income of an individual resident, twenty-five percent of that tax and if thirty percent is taxable, fifty percent of that tax,

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<sup>78</sup> Amended by the Financial Act, 2021.

<sup>79</sup> Amended by the Financial Act, 2019.

- (b) twenty percent of tax leviable on the income of an entity,
- (c) additional <sup>80</sup>thirty-five percent of the tax on income earned from export of goods produced by a production-based industry, after deduction of the exemption under clause (a) or (b).

<sup>81</sup>(3f) In the case of income earned by any entity by doing any of the following, there shall be exemption from the tax applicable in business transaction up to ten years of such transaction as follows:

- (a) forty percent, in the case of operation of a tram or trolley bus,
- (b) forty percent, in the case of build and operation of a ropeway, cable car, railway, tunnel or sky bridge,
- (c) fifty percent, in the case of construction and operation of a road, bridge or tunnel, railway, airport.

<sup>82</sup>(3g) The production based, tourism service, hydropower generation, distribution and transmission entities enlisted in securities market and the entities mentioned in sub-section (3c) of Section 11 shall have fifteen percent exemption form the payable tax.

<sup>83</sup>(3h) The industry established in remote and undeveloped area producing brandy, cider and wine based on fruits shall have forty and

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<sup>80</sup> Amended by the Financial Act, 2021.

<sup>81</sup> Amended by the Financial Act, 2020.

<sup>82</sup> Inserted by the Financial Act, 2018.

<sup>83</sup> Inserted by the Financial Act, 2018.

twenty-five percent exemption respectively from income tax for ten years from the date of commencement of the transaction.<sup>84</sup>

<sup>85</sup>(3i) Any person receiving royalty income from exportation of intellectual property shall have twenty-five percent exemption at the rate of income tax leviable on such income.

<sup>86</sup>(3j) Any person receiving income from the sale through transfer of intellectual property shall have fifty percent exemption at the rate of income tax leviable on such income.

<sup>87</sup>(3k) The industry related to tourism or the airlines company operating international flight shall be provided with tax exemption as follows:

(a) established with capital investment of more than one arb rupees shall have full exemption for five years from the date of commencement of the transaction and fifty percent exemption at the rate of leviable income tax for three years afterwards.

(b) established with capital investment of more than three arb rupees shall have full exemption for ten years from the date of commencement of the transaction and fifty percent exemption at the rate of leviable income tax for five years afterwards.

(c) established with capital investment of more than five arb rupees shall have full exemption for fifteen years from the date of commencement of the transaction.

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<sup>84</sup> Amended by the Financial Act, 2020.

<sup>85</sup> Inserted by the Financial Act, 2018.

<sup>86</sup> Inserted by the Financial Act, 2018.

<sup>87</sup> Inserted by the Financial Act, 2018.

<sup>88</sup>(3l) If a special industry or industry related to tourism sector capitalizes its accumulated profit into shares for increase in capacity of the same industry, there shall be full exemption from the dividend tax leviable in distribution of dividends from such capitalization.

<sup>89</sup>(3m) If any company having the paid-up capital of fifty crore rupees or more operating as a private company converts into a public company and operate its transaction, it shall have ten percent exemption from the leviable tax for three years from the date of its conversion into public company.

Provided that a company required to be incorporated as a public company under Section 12 of the Company Act, 2063 (2006) shall not have the facility referred to in this sub-section.

<sup>90</sup>(3n) A domestic tea producing and processing industry, dairy industry having transaction in milk products or textile industry shall have fifty percent exemption at the rate of income tax leviable on the income earned from sale of its products.

<sup>91</sup>(3o) A health institution operated by a community institution shall have twenty percent exemption from its taxable income tax.

<sup>92</sup>(3p) A micro-enterprise shall have full exemption from leviable income tax for seven<sup>93</sup> years from the date of commencement of its business or transaction. If such a micro- enterprise is operated by a woman

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<sup>88</sup> Inserted by the Financial Act, 2018.

<sup>89</sup> Inserted by the Financial Act, 2018.

<sup>90</sup> Inserted by the Financial Act, 2018.

<sup>91</sup> Inserted by the Financial Act, 2018.

<sup>92</sup> Inserted by the Financial Act, 2018.

<sup>93</sup> Amended by the Financial Act, 2020.

entrepreneur, it shall have full exemption from leviable income tax for additional three<sup>94</sup> years.

<sup>95</sup>(3q) If any entity in any income year operates any project such as building and operation a public infrastructure to be transferred to the Government of Nepal or building a powerhouse, generation and transmission of electricity, such entity shall have twenty percent tax exemption from its taxable income.

<sup>96</sup>(3r) The special industry established and operated in industrial area or industrial village shall have fifty percent tax exemption for three years of commencement of its transaction and twenty-five percent tax exemption for five years afterwards. .

<sup>97</sup>(3s) Twenty percent tax exemption shall be provided in the income earned by selling raw material or associated raw material produced domestically to the special industry.

<sup>98</sup>(3t) The start –up business using new changing knowledge, thought, skill having annual transaction of up to one crore , as prescribed by the Department shall be provided with hundred percent tax exemption for five years of commencement of its transaction.

<sup>99</sup>(3u) Whereas any special industry operated in Kathmandu valley translocated outside the valley and operated thereto, hundred percent tax exemption shall be provided for three years of such translocation and fifty percent tax exemption for two years afterwards.

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<sup>94</sup> Amended by the Financial Act, 2020.

<sup>95</sup> Inserted by the Financial Act, 2019.

<sup>96</sup> Amended by the Financial Act, 2021.

<sup>97</sup> Inserted by the Financial Act, 2021.

<sup>98</sup> Inserted by the Financial Act, 2021.

<sup>99</sup> Inserted by the Financial Act, 2021.

<sup>100</sup>(3v) The industry producing new goods only from the raw materials of used goods having direct impact on environment shall be provided with tax exemption of fifty percent for first three years of the commencement of the transaction and twenty- five percent for two years afterwards.

<sup>101</sup>(3w)The industry producing immunization vaccine, oxygen gas and sanitary pad shall be provided with tax exemption of hundred percent from the date of commencement of its transaction and fifty percent for two years afterwards. <sup>102</sup>(4) If any person carries on transactions qualifying for different tax exemption facilities pursuant to this Section, income shall be computed to obtain such facility as if that income were derived by separate persons.

<sup>103</sup>(5) A person who is in a position to have more than one exemption in respect of the same income pursuant this Section shall enjoy only one exemption chosen by him or her.

(6) Notwithstanding anything contained in sub-section (3), if any other person has used the properties used to operate the industry referred to in clause (b) for the operation of the industry of the same type previously, the period during which they have been so used shall also be reckoned, while reckoning the time-limit referred to in that sub-section.

Explanation: For purposes of this Section:

(a) "Agricultural business" means a business of producing crops from a public or private land or acquiring rent or crops from a tenant using the land.

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<sup>100</sup> Inserted by the Financial Act, 2021.

<sup>101</sup> Inserted by the Financial Act, 2021.

<sup>102</sup> Amended by the Financial Act, 2019.

<sup>103</sup> Amended by the Financial Act, 2018.

- (b) <sup>104</sup>"Least developed", "undeveloped" and "underdeveloped area" means the areas referred to in Schedule-10 of the Industrial Enterprises Act, 2019 (2076)<sup>105</sup>.
- (c) <sup>106</sup>"Special industry" means a production-based industry, industry based on agriculture and forest products and mineral industry as classified in sub-section (2) of Section 17 of the Industrial Enterprises Act, 2019<sup>107</sup> other than any industry producing cigarette, *Bidi*, *Sigar*, tobacco, *Khaini*, *Gutkha*, *Pan Masala*, other goods of the same nature involving tobacco as the principal raw materials, liquors, beer and products of similar kind.
- (d) <sup>108</sup>"Micro-enterprise" means any micro-enterprise classified in clause (a) of sub-section (1) of Section 17 of the Industrial Enterprises Act, 2076 (2019)<sup>109</sup>.

<sup>110</sup>(7) Notwithstanding anything contained in sub-sections (3a) and (3c), if the property used in operation of the industry or business mentioned in the same sub-sections is an old property used by other person for the operation of industry or business of the same kind or other kind, the facilities referred to in those sub-sections shall not be available.

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<sup>104</sup> Amended by the Financial Act, 2018.

<sup>105</sup> Amended by the Financial Act, 2020.

<sup>106</sup> Amended by the Financial Act, 2018.

<sup>107</sup> Amended by the Financial Act, 2020.

<sup>108</sup> Amended by the Financial Act, 2018.

<sup>109</sup> Amended by the Financial Act, 2020.

<sup>110</sup> Inserted by Financial Act, 2018.

<sup>111</sup>11A. Tax chargeable on construction and operation of infrastructure: If any agreement is concluded between the Government of Nepal and any person for the construction and operation of any infrastructure, the person constructing and operating such infrastructure shall enjoy the tax facilities provided by the Act in force at the time of conclusion of the agreement for the whole period of the agreement.

<sup>112</sup>11B. ....

<sup>113</sup>11C. Concession with respect to infrastructure development projects of national importance: There shall not be sought the source of income of any investment made in any infrastructure development project of national importance such as a hydropower project, international airport, subway, road and railway or in a manufacturing industry (except an industry producing cigarette, Bidi, Sigar, chewing tobacco, Khaini, gutkha, pan masala, liquor and beer) providing employment to more than three hundred domestic workers and using more than fifty percent of domestic raw materials, till 2080 Chaitra (mid April 2024).

12. Donation, gift given to organizations entitled to tax exemption: (1) In computing his taxable income in any income year, any person may make claim to subtract the amount of donation, gift given to an organization entitled to tax exemption approved by the Department for the purpose of this Section.

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<sup>111</sup> Inserted by the Financial Act, 2018.

<sup>112</sup> Repealed by Some Nepal Laws Amendment Act, 2019..

<sup>113</sup> Inserted by the Financial Act, 2021.

<sup>114</sup>(2) Notwithstanding anything contained in sub-section (1), the expenditure deductible in any income year shall not exceed one hundred thousand rupees or five percent of the adjusted taxable income of such person for that year, whichever is the lesser.

(3) Notwithstanding anything contained in sub-sections (1) and (2), in any special situation, the Government of Nepal may, by a notification in the Nepal Gazette, so specify that any amount spent or donated by any person for any work specified in that notification may be deducted fully or partly for expenditure, in determining the income of that person.

<sup>115</sup>12A. Expenses on heritage protection and sports development: In computing its taxable income in any income year, any company may make claim to subtract an amount not exceeding ten lakh rupees or an amount to be set by ten per cent of the assessable income, whichever is the lesser out of the expenditure made by it in that year in the protection and preservation of historical, religious and cultural heritages in Nepal or in the construction of public physical infrastructure of sports, upon prior approval of the Department.

<sup>116</sup>12B. Expenses contributed to Prime Minister Natural Calamities Fund and reconstruction fund established by the Government of Nepal: Any person contributing any amount in any income year to the Prime Minister Natural Calamities Fund and reconstruction fund established by the Government of Nepal may deduct such amount in computing taxable income for that year.

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<sup>114</sup> Amended by the Financial Act, 2018.

<sup>115</sup> Inserted by the Financial Act, 2018.

<sup>116</sup> Inserted by the Financial Act, 2018.

- <sup>117</sup>12C. Seed capital provided to start-up business: Any person making a grant of up to one lakh rupees as seed capital to each start-up business up to five in number except to the concerned person may deduct such amount as expenses in computing taxable income.

## Chapter-5

### Deductible Amounts

13. General deduction: Any person may, for the purpose of computing his income from any business or investment in any income year, deduct the following expenditures related with the transactions, subject to this Act:
- (a) Made in that income year,
  - (b) Made by that person, and
  - (c) Made in earning income from the business or investment.
14. Interest deduction: (1) Any person may, for the purpose of computing his income from any business or investment in any income year, deduct all interests chargeable, in that year under the following debt liabilities created for the act of generating income from business or investment,<sup>118</sup> of that person:
- (a) If the debt liability has created for having borrowed any amount, and that amount has been used in that year or used to buy any property used in that year, or
  - (b) That debt liability has been created in any other circumstance.

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<sup>117</sup> Inserted by the Financial Act, 2021.

<sup>118</sup> Inserted by the Financial Act, 2018.

(c) <sup>119</sup> .....

(2) Notwithstanding anything contained in sub-section (1), a resident entity controlled by an organization entitled to tax exemption <sup>120</sup>can deduct the interest if paid to the person controlling or the concerned person pursuant to sub-section (1) in any income year and such interest amount shall not exceed the total of the following amounts:

- (a) All interest amounts obtained in that year to be included in the computation of the taxable income of that entity, and
- (b) Fifty percent amount of the <sup>121</sup>adjustable taxable income of that entity in that year, which has been computed excluding any interest derived by that entity or without deducting any interest paid by that entity.

(3) Any interest not allowed to be deducted or not deducted pursuant to sub-section (2) may be carried forward or credited in the forthcoming income year.

Explanation: For the purposes of this Section, "a resident entity controlled by an organization entitled to tax exemption" means an entity which, being a resident entity in that year, is subject to a vested ownership or control of twenty-five percent or more of the following persons or organizations in any time of that year:

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<sup>119</sup> Removed by the Financial Act, 2018.

<sup>120</sup> Amended by the Financial Act, 2018.

<sup>121</sup> Amended by the Financial Act, 2018.

- (a) An organization entitled to tax exemption and a person associated with that organization,
- (b) A person entitled to tax exemption pursuant to Section 11 in that year or a person associated with that person,
- (c) A non-resident person or a person associated with the non-resident person, or
- (d) Any combination of the persons referred to in clauses (a), (b) and (c).

15. Allowances for cost of stock-in-trade: (1) For the purpose of computing the income earned by any person from any business in any year, any other allowances shall be allowed except the allowances for the cost computed pursuant to sub-section (2) in respect of the disposal of the stock-in-trade of the business of that person in that year.

(2) The allowance for the cost referred to in sub-section (1) shall be computed as follows by deducting the amount referred to in clause (b) from the amount referred to in clause (a):

- (a) The amount to be set by adding the cost of the stock-in-trade derived from any business in any income year to the initial value of the stock-in-trade of that business in that year,
- (b) The amount of final value of the stock-in-trade of any business in an income year referred to in clause (a).

(3) The initial value of the stock-in-trade of any business in any income year shall be the final value of the stock-in-trade of that business at the end of last income year.

(4) Whichever is lesser out of the following amounts shall be considered the final value of the stock-in-trade of that business of that income year:

(a) The cost of the stock-in-trade of that business at the end of that income year, or

(b) The market value of the stock-in-trade of that business at the end of that income year.

(5) In computing the cost of the stock-in-trade of a business, a person has to do as follows subject to Section 45 and sub-section (6):

(a) In computing the income of a business, in the case of a person maintaining the accounts on the cash basis, by using the method of cost price or consumption cost, and

(b) In computing the income of a business, in the case of a person maintaining the accounts on the accrual basis, by using the method of consumption cost.

(6)<sup>122</sup> If the stock-in-trade of business of any person cannot be determined, that person may choose either the first in first out method or average cost method to compute the cost of stock-in-trade.

(7) When computing the cost of stock-in-trade pursuant to sub-section (5), it has to be computed by the following method:

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<sup>122</sup> Amended by the Financial Act, 2018.

- (a) When computing as per the consumption cost method, to so compute the cost of the stock-in-trade under the widely recognized accounting principle that it is equal to the sum total of direct material cost, direct labor cost and overhead cost of factory.
  - (b) When computing as per the cost price method, to so compute the cost of the stock-in-trade under the widely recognized accounting principle that it is equal to the total sum of direct material cost, direct labor cost and alterable overhead cost of factory.
- (8) When computing the cost of stock-in-trade pursuant to sub-section (6), it has to be computed by the following method:
- (a) <sup>123</sup>When computing as per the average cost method, to compute all the stock-in-trade of the same type in the business under the widely recognized accounting principle as per the average cost method.
  - (b) When computing as per the first in first out method, to compute on the basis that the stock-in-trade received first is also disposed first, under the widely recognized accounting principle.

Explanation: For the purposes of this Section, -

- (a) "Direct labor cost" means the labor cost directly related with the production of the stock- in-trade.

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<sup>123</sup> Amended by the Financial Act, 2018.

- (b) "Direct material cost" means the cost of materials which are or will be an integral part of the stock-in-trade.
- (c) "Overhead cost of factory" means the total cost incurred in producing stock-in-trade except the direct labor cost and direct material cost.

<sup>124</sup>Provided that no amount for repair and maintenance and depreciation deduction shall be included in the overhead cost of the factory.

- (d) "Alterable overhead cost of factory" means the overhead cost of factory that alters directly with a change in the produced quantity of stock-in-trade.

<sup>125</sup>Provided that no amount for repair and maintenance and depreciation deduction shall be included in alterable overhead cost of the factory.

16. Repair and maintenance expenses: (1) When computing the income of any business or investment in any income year, a person may deduct all expenses incurred in the repair and maintenance of the depreciable property owned and used in that year to earn income from that business or investment.

<sup>126</sup>(2) Notwithstanding anything contained in sub-section (1), in deducting the expenses allowable under that sub-section, it shall not exceed seven percent of the depreciation base amount of the group of property remaining at the end of that income year.

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<sup>124</sup> Inserted by the Financial Act, 2018.

<sup>125</sup> Inserted by the Financial Act, 2018.

<sup>126</sup> Amended by the Financial Act, 2018.

Provided that no such limit shall be applicable to repair and maintenance expenses incurred in testing of an airplane pursuant to the standards determined by the Civil Aviation Authority of Nepal by the person providing air transport service.

<sup>127</sup>(3) Any excess expense or part thereof on repair and maintenance which is not deductible because of the limit referred to in sub-section (2) may be added to the depreciation base amount of the group of the concerned property in the beginning of upcoming income year.

17. Pollution control expenses: (1) For the purposes of computing the income earned by any person from any business in any income year, such person may deduct the pollution control expenses to the extent incurred in the operation of that business in that year.

<sup>128</sup>(2) Notwithstanding anything contained in sub-section (1), in computing the limit of expenses deductible under that sub-section in any income year, it shall not exceed fifty percent of the adjustable taxable income of all business operated by such person.

(3) Any excess expense or part thereof which is not deductible in excess of the limit referred to in sub-section (2) may be capitalized and depreciated pursuant to Schedule-2 <sup>129</sup>in the beginning of the upcoming income year.

Explanation: For purposes of this Section, "pollution control expenses" means the expenses incurred by any person related with

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<sup>127</sup> Amended by the Financial Act, 2018.

<sup>128</sup> Amended by the Financial Act, 2018.

<sup>129</sup> Inserted by the Financial Act, 2018.

any process for the purpose of controlling pollution or protecting or conserving the environment in other manner.

18. Research and development expenses: (1) For the purposes of computing the income earned by any person from any business in any income year, such person may deduct the research and development expenses to the extent incurred in the operation of that business in that year.

(2)<sup>130</sup> Notwithstanding anything contained in sub-section (1), in computing the limit of expenses deductible under that sub-section in any income year, it shall not exceed fifty percent of the adjustable taxable income of all business operated by such person.

(3) Any excess expense or part thereof which is not deductible in excess of the limit referred to in sub-section (2) may be capitalized and depreciated pursuant to Schedule-2 <sup>131</sup>in the beginning of the upcoming income year.

Explanation: For the purposes of this Section, "research and development expenses" means the expenses incurred by any person for the purpose of controlling developing his business and improving commercial production and process.

Provided that such expenses shall not include the cost at the time of acquiring any property referred to in sub-section (3) of Section 1 of Schedule-2.

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<sup>130</sup>Amended by the Financial Act, 2018.

<sup>131</sup>Inserted by the Financial Act, 2018.

19. Depreciation deduction expenses: (1) For the purposes of computing the income earned by any person from any business or investment in any income year, such person <sup>132</sup>shall deduct depreciation pursuant to Schedule-2 in lieu of depreciation of the depreciable properties owned and used by that person in that year in making income from that business or investment.

(2) Notwithstanding anything contained in sub-section (1), the following provisions shall be applicable in respect of the deduction for depreciation of the devices, equipment and other machineries installed by any entity in the projects which involve construction and operation of public infrastructures and are transferred to the Government of Nepal and in the projects on construction of powerhouses and generation and transmission of electricity:-

(a) If the devices, equipment and other machineries installed previously become obsolete because of being old or worn and torn and new devices, equipment and other machineries have to be installed in lieu thereof, the value which remains by subtracting depreciation deduction until the income year from the cost of the property, which has become obsolete property because of being old or worn and torn, installed previously in that income year in which they were so installed may be deducted as expenses.

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<sup>132</sup>Amended by the Financial Act, 2018.

- (b) In respect of properties other than the old properties replaced pursuant to clause (a), if any value remains by subtracting depreciation deduction until the income year when transfer takes place from the cost of those properties at the time when the entity transfers such a project to the Government of Nepal, the entity may deduct such a remaining value as expenses.

20. Loss from business or investment: (1) For the purposes of computing the income earned by any person from any business or investment in any income year, such person may deduct the loss as mentioned below:

- (a) Loss suffered by that person from any other business and not deducted in that year, and
- (b) <sup>133</sup>Loss suffered by that person from any business and not deducted in the last seven income years.

Provided that in the case of a project of building and operation of any public infrastructure, which is then transferred to the Government of Nepal, a project on construction of powerhouse and generation and transmission of electricity, and an entity conducting petroleum work pursuant to the Nepal Petroleum Act, 2040 (1983), loss not deducted in the last twelve income years.

<sup>134</sup>(2) For the purposes of computing the income earned by any person from any investment in any income year, such person shall be allowed to deduct the loss suffered by that person from any

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<sup>133</sup> Amended by the Financial Act, 2018.

<sup>134</sup> Amended by the Financial Act, 2018.

other investment and not deducted in that year and the loss incurred by that person from such investment or any other investment which could not be deducted in the past seven years.

(3) Subject to sub-sections (1) and (2), and for the purposes of these sub-sections, any loss suffered by any person in respect of the foreign source and not deducted may be deducted only in computing the income earned by that person from his foreign source, and the loss suffered in earning any non-taxable income and not deducted may be deducted only in computing non-taxable income of that person.

(4) Subject to sub-sections (1) and (2), if any person suffers a loss in an income year when a long-term contract obtained by any person by making competition of the business at the international level was completed or when a disposal was made in any other manner or a loss which was not deducted and the liability whereof is allowed to be carried forward in the coming year pursuant to clause (b) of sub-section (1) is related with a long-term contract, the Department may, by a notice in writing, give permission to deal with that loss as follows:-

- (a) The loss may be carried backward in last income year or years, and
- (b) The loss may be treated as not deducted only to the extent of the excess where, in computing the income of the business related with that long-term contract, the amounts

to be included in the incomings exceed the amounts to be included in the outgoings.

(5) The following loss suffered by any person in any income year has to be allocated as if it were related with a long-term contract or contracts of that person:

- (a) The loss resulted from a long-term contract or contracts related with the business, and
- (b) The loss on excess of the expenses to be deductible in computing the income earned from that business in the year related with the contract for each such contract.

(6) If, when computing the income earned by any person in any income from more than one business or investment, that person is allowed to deduct the loss not deducted from more than one business or investment, that person may on his own determine the priority of the business or investment from which the portion of loss is deducted.

(7) If, when computing the loss suffered by any person from any business or investment in any income year, this section is not used and the deductible amounts exceed the amounts includable in computing the income from the business or investment of that person, such excess amounts have to be computed.

<sup>135</sup>(8) If any person has received full tax exemption in respect of income of business or investment in any income year, the loss

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<sup>135</sup> Inserted by the Financial Act, 2018.

incurred in that income year shall not be carried forward to upcoming income year.

Explanation: For purposes of this Section, "the loss not deducted" means the loss to the extent not deducted in computing the income of any person pursuant to sub-section (1), (2) or (4).

21. Expenses not allowed for deduction: (1) Notwithstanding anything contained elsewhere in this Act, for the purpose of computing the income earned by any person from any business, employment or investment in any income year, the following expenses or amounts shall not be deducted:

- (a) Expenses of domestic or personal nature,
- (b) Tax payable under this Act and a fine or similar other fee paid to the government of any country or any local body thereof for a violation of any law or regulation, byelaw framed thereunder,

<sup>136</sup>Provided that the tax paid to the Provincial Government and Local Level shall be deducted as expenses.

- (c) Expenses to the extent of those spent by any person to obtain the amounts enjoying exemption pursuant to Section 10 or expenses made to obtain the amounts from which tax has been deducted finally,
- (d) Expenses for the payments referred to in sub-section (2),

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<sup>136</sup> Inserted by the Financial Act, 2018.

<sup>137</sup>(d1) Remuneration and wages expenses distributed to employees and workers having no permanent accounts number except for wages paid up to three thousand rupees of frequent nature,<sup>138</sup>

<sup>139</sup>(d2) Expenses against invoices of more than two<sup>140</sup> thousand rupees wherein permanent accounts number is not mentioned,

Provided that the purchase expenses shall be valid if the seller of agricultural, forest, animal or other household goods has no permanent accounts number as he or she is a natural person doing direct business transaction.<sup>141</sup>

(e) Distribution of profits by any entity, or

(f) Similar other amounts notwithstanding that they are not so mentioned in clauses (a), (b), (c), (d) and (e) as not to be deductible, except those allowable under this Chapter or Chapter-6, 7, 10, 12 or 13.

(2) If a person, whose annual turnover is more than twenty lakh rupees in any income year, makes a cash payment of more than fifty thousand rupees at a time in that income year except in the following circumstances, he shall not be allowed to make that deduction:

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<sup>137</sup> Inserted by the Financial Act, 2019.

<sup>138</sup> Amended by the Financial Act, 2020.

<sup>139</sup> Inserted by the Financial Act, 2019.

<sup>140</sup> Amended by the Financial Act, 2020.

<sup>141</sup> Inserted by the Financial Act, 2020.

- (a) Payment made to the Government of Nepal, constitutional body, corporation or bank or financial institution owned by the Government of Nepal,
- (b) Payment made to a farmer or producer producing a primary agro-product and payment to a farmer who has processed such product on his own, notwithstanding that primary processing of such product has already been carried out,
- (c) Payment for retirement contribution or retirement payment,
- (d) Payment made in a place where banking services are not available,
- (e) Payment made on the day when banking services are closed or payment involving a mandatory provision of payment in cash, or
- (f) Amount deposited in a bank account of the recipient of payment.

(3) Subject to the provisions of Sections 14, 15, 16, 17, 18, 19, 20 and 71, no amount shall be deductible for capital expenses or foreign income tax.

Explanation: For purposes of this Section, -

- (a) "Expenses of domestic or personal nature" means the following expenses:

(1) <sup>142</sup>Private expenses of any individual, and expenses made inclusive of the following expenses made for the interest of a loan to the extent that the loan has been used for personal purpose:

- (a) Expenses made for an individual for the provision of lodging, food, snacks, and other activities of entertainment or amusement,
- (b) Expenses for the movement by an individual from his house to the place where the business or investment is operated except for the movement in the course of business or investment,
- (c) Expenses made to purchase clothes for an individual except those clothes which are not proper to put on at other times than working times, and
- (d) Expenses made for education or training.

Provided that the expenses made only for the education directly related with the business or investment, where no degree or diploma is achieved.

(2) Except in the following circumstances and to that extent, expenses incurred in respect of a payment made by any person to any individual and expenses made for a third person:

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<sup>142</sup> Amended by the Financial Act, 2018.

- (a) If that payment has been included in computing the income of an individual,
  - (b) If the individual has made, as a consideration, a return payment to that person in a sum equal to the market value of the payment received by him,
  - (c) If payment is made for such prescribed petty amounts of which accounts are difficult or administratively impracticable to be maintained.
- (b) "Place where banking service is available" means any place within ten kilometers area whereof banking service is available.
- <sup>143</sup>(c) "Cash payment" means a payment except a payment by a letter of credit, account payee cheque, draft, money order, telegraphic transfer, money transfer (hundi) through a bank or financial institution to be deposited in bank account and a transfer made by any other means between banks or financial institutions.
- (d) "Capital expenses" means the following expenses:
- (1) Expenses incurred in feasibility study, exploration and development of natural resources,
  - (2) Expenses incurred in acquiring any property with useful life for more than twelve months, or
  - (3) Expenses in disposing a liability.

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<sup>143</sup> Amended by the Financial Act, 2018.

## Chapter-6

### Tax Accounting and Time

22. Method of tax accounting:(1) The matter when any person gets any income or makes any expense shall be determined in accordance with the widely recognized accounting principle, subject to this Act.

(2) An individual shall, while computing the income to be earned from his employment and investment, maintain accounts on the cash basis, for purposes of tax.

(3) A company shall maintain accounts on the accrual basis, for purposes of tax.

(4) Except if the Department has otherwise specified by issuing a notice in writing, any person may, for purposes of income tax, maintain accounts on the cash or accrual basis, subject to sub-sections (1), (2) and (3).

(5) Any person may make an application to change the method of accounting for tax purposes, subject to sub-sections (2) and (3). If the Department thinks that it is necessary to change the method of accounting to clearly show the income of such person, the Department may give permission to change the method of accounting.

(6) If the method of accounting of any person for purposes of tax is changed pursuant to sub-section (5), in computing the income of that person in the income year when such change is made, adjustment has to be so made that no amounts out of those included, deducted or to be included or deducted are omitted or duplicated.

23. Cash basis accounting: Any person shall, in maintaining accounts on cash basis of his income earned from employment, business or investment for tax purposes, subject to this Act, do as follows:

(a) To treat as income only that which is received at the time when payment is received by him or made available to him and include it in his income.

(b) To deduct for expense only after he pays out.

24. Accrual basis accounting: (1) Any person shall, in maintaining accounts on the accrual basis of his income earned from business or investment subject to this Act, for purposes of tax, any income shall be included in computation of his income, considering that any payment has been received immediately when the right to receive such payment is created.

(2) For the purposes of making deduction <sup>144</sup>in computing income earned by any person as mentioned in sub-section (1), the following expenses shall be deemed to have been borne:

(a) If any payment involving such expenses has been made in lieu of a payment made by any other person, the expenses shall be deemed to have been borne in the following circumstances:

(1) The person has the liability to make that payment,

<sup>145</sup>(2) The value of such liability can be ascertained in a realistic manner, and

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<sup>144</sup> Amended by the Financial Act, 2018.

<sup>145</sup> Amended by the Financial Act, 2018.

(3) Payment has been received from another person.

(b) In all other circumstances except that mentioned in clause (a), an expense shall be deemed to have been borne at the time when payment is made.

<sup>146</sup>(3) Notwithstanding anything contained in sub-section (1), the Department may recognize the accounting specified by the Nepal Rastra Bank with respect to banking business, subject to the Nepal Rastra Bank Act, 2058 (2002) and prevailing laws relating to banking.

Provided that a cooperative organization may keep accounting of interest income on cash basis.

<sup>147</sup>(4) Where, in computing on the accrual basis, the income earned by any person from a business or investment, any payment receivable by that person is included or any payment to be borne by that person is deducted, and a difference occurs in the amount received or paid by that person because of, *inter alia*, difference in the exchange rate, the difference has to be adjusted in receiving or making payment.

25. Reverse of the amounts including bad debt: (1) When maintaining accounts of the amounts received and expenses borne in the computation of the income earned by any person from any employment, business or investment, the person has to make proper adjustments at the time of reimbursement, recovery, relinquishment

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<sup>146</sup> Amended by the Financial Act, 2018.

<sup>147</sup> Amended by the Financial Act, 2018.

of claim, writing off, or remission in any of the following circumstances:

- (a) Where that person <sup>148</sup>pays back such amount, or recovers the expense, as the case may be,
- (b) Where the accounts of the amount received have been maintained on the accrual basis and the person subsequently relinquishes his right to receive that amount or where that amount is a debt claim of that person and he writes off the debt as a bad debt, or
- (c) Where the accounts of the expense incurred have been maintained on the accrual basis and the person subsequently relinquishes his liability to incur such expense or where that expense is a debt claim, the person whom the debt is to be repaid remits the debt.

(2) Any person may relinquish the right to receive any amount or to write off the debt liability of that person as a bad debt only in the following circumstances:

- (a) In the case of a debt claim of any financial institution or bank, the debt claim is converted into a bad debt as per the specified criteria, and
- (b) If, after having followed all proper measures to receive payment in circumstances other than those referred to in clause (a), that person is reasonably satisfied that the right or debt claim cannot be realized or recovered.

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<sup>148</sup> Amended by the Financial Act, 2018.

26. Method of deriving average of amounts includible and deductible under long-term contract: (1) For purposes of computing the income earned by any person from any employment, business or investment in any income year, the estimated amounts includible and deductible according to the sum of sequential increase as per the percentage of completion of the contract under the long-term contract of that person, shall be deemed to have been received or spent.

Explanation: For purposes of this Section, "long-term contract" means any contract of the following nature:

- (a) A contract with a validity period of more than twelve months, and
  - (b) A contract with a deferred consideration except a contract which is concluded for production, installation or construction or for the discharge for relevant services for each of such works or which does not contain such elements.
- (2) A contract with a deferred consideration, a contract to be included according to the sum of sequential increase, a contract to be deducted according to the sum of sequential increase, an excluded contract and a contract of completion percentage shall be as prescribed.

## Chapter-7

### Quantification, Allocation and Characterization of Amounts

27. Quantification of amounts: (1) Any payment has to be quantified equal to the following amount:

- (a) In the case of a payment made by way of transferring<sup>149</sup> ..... property by any person to another person, amount equal to the market value of the transferred<sup>150</sup> ..... property,
- (b) The amount to be determined as prescribed for the payment made for the provision of the following matters or the amounts to be determined pursuant to clause (e) where there is no provision for determining the amount:
- (1) A motor vehicle used or made available for use for personal purposes of the recipient of payment in full or in part, or
  - (2) A building made available for the recipient of payment.
- (c) The amount which remains by deducting the contributions of the recipient of payment from the expenditure made by the person making payment for the provision of the following:
- (1) The services of a caretaker of the house, cook, driver, gardener or other domestic assistant,
  - (2) Any food, beverage or entertainment, or
  - (3) Services like water, electricity, telephone installed in the residence of the recipient.

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<sup>149</sup> Removed by the Financial Act, 2018.

<sup>150</sup> Removed by the Financial Act, 2018.

- (d) If the interest paid by any person who has to receive payment in any income year for a loan is less than the amount of interest to be paid as per the prevailing interest rate, the amount to the extent of such a less,
- (e) In respect of a payment except the payment referred to in clauses (a), (b), (c) and (d), if a third person receives payment instead of the recipient of payment, the amount equal to the value of benefit derivable generally.

(2) The time when a payment is earned, received, made, borne or otherwise worked out for tax purposes in respect of clauses (a) and (e) of sub-section (1) shall be the time when the quantification of amounts has been made.

28. Conversion into money: (1) If the income of a person and the amounts to be included and deducted in assessing the income has been quoted in other currency except Nepalese rupees, such amounts have to be converted into Nepalese rupees.

(2) If the amounts to be included or deducted in computing the income of any person in any income year have been quoted in other currency except Nepalese rupees, such currency has to be converted into Nepalese rupees as per the exchange rate prevailing at the time when the amount was received, expended, paid, or otherwise worked out for tax purposes.

(3) Notwithstanding anything contained in sub-section (2), if the Department has, by issuing a notice in writing, given

permission for purposes of that sub-section, any person may apply the average exchange rate prescribed by the Department.

- <sup>151</sup>29. Indirect payments: If any person gets indirect benefit from the payments made by the payer or a person associated with him or her or specifies other person to receive the payment, the Department may, by issuing a notice in writing, treat such other person or specified person as the recipient of payment.
30. Investment under joint ownership: Any person shall allocate the amounts to be included or deducted in computing the income for purposes of computing the income earned from the investment under joint ownership with other persons on the basis of proportion of the respective interests of the joint owners in that investment.
31. Characterization of payment for compensation: If any person or his associated person has received any compensation amount for the following matters including payments for insurance, at the time of receipt of the amount for the compensation, such amount has to be included, as the case may be, in computing the income earned from employment, business or investment:-
- (a) Compensation for any income earned or likely to be earned by that person from any business or investment or for any amount to be included in the computation of that income, or
  - (b) Compensation for any loss suffered or likely to be suffered by that person from any business or investment or for any expenses to be deducted in the computation of that income.

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<sup>151</sup> Amended by the Financial Act, 2018.

<sup>152</sup>Provided that,

- (1) The amount of payment of compensation for physical damage of the resident individual from personal accident shall not be included in the income and such expenses in treatment of damage from such accident shall not be claimed for tax adjustment pursuant to Section 51.
- (2) The compensation amount to be received for the death of an individual shall not be included in the income.

32. Characterization of payment under annuities, installment sale and financial lease: (1) Any payment made by the person who acquires a property under annuities or installment sale or payment made to any person for the use of any property under a financial lease shall be treated as the interest and return of capital under the debt claim under this Section.

(2) All payments referred to in sub-section (1) have to be calculated in gross and the total sum thereof has to be divided into two portions as follows:

- (a) Capital portion comprising all payments for annuities as per necessity or equivalent to the market value of any property at the time of selling that property by installment or leasing it, and
- (b) Interest portion to be set by subtracting the capital portion from the total sum of all payments referred to in sub-section (1).

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<sup>152</sup> Inserted by the Financial Act, 2018.

(3) Total payment schedule shall be provided by clearly setting out the capital and interest portions, .....<sup>153</sup> in determining installments, at the time when annuity, installment sale or financial lease is made. One who cannot provide such schedule has to treat the interest and principal portion, annuity, installment sale or financial lease as if they were mixed loans with interest to be kept on adding in every six months and allocate them in payments as referred to in sub-section (1).

(4) The borrower has to pay the principal in part and the interest in part by working out the portion of interest in the due and payable principal at the time of each payment in a manner that the rate of interest is the same during the period of loan of payment to be made pursuant to sub-section (1) as if it were a mixed loan.

(5) The following terms have to be fulfilled in making a lease under a financial lease pursuant to this section:

- (a) Where the lease agreement contains an option that ownership is transferred after expire of the validity period of the lease or the lessee can purchase that property at a certain price or a foreseen price after expire of the validity period of the lease,
- (b) Where the period of lease exceeds seventy-five percent of the useful life of that property,
- (c) Where the estimated market value of that property after expire of the period of the lease is less than twenty

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<sup>153</sup> Removed by the Financial Act, 2018.

percent of the market value of that property prevailing at the beginning of the lease,

- (d) In the case of a lease that commences prior to the ultimate twenty-five percent life of the useful life of the property, where the current value of the minimum lease payment is equal to ninety percent of the market value of that property at the time of commencement of the period of the lease or more than that, or
- (e) Where a property has been prepared in a special manner for the lessee and, after expire of the period of lease, that property is not of practical use for any other person except the lessee.

(6) Each payment referred to in sub-section (1) shall be divided into two portions pursuant to sub-section (3), and the interest portion under the debt claim has to be treated as paid or to be paid interest and the capital portion as repayment of capital.

(7) A lessee under a financial lease shall be treated as the person having ownership of the property leased, and the lesser shall be treated as having debt claim over the lessee.

(8) The current value of the lease payment has to be computed by applying discount rate equal to the normal interest rate.

Explanation: "Period of lease" means and includes an additional period for which the lessee is entitled to have the lease renewed.

33. Price transferring and other arrangements between associated persons: (1) If any provision is made between the associated persons and the provision is operated as per arms length, the Department may, by issuing a notice in writing, distribute, appropriate or allocate the amounts to be included or deducted in computing the income between those persons in such a manner as to reflect the taxable income or the payable tax that could be set for them.

(2) In carrying anything mentioned in sub-section (1), the Department may do as follows:

(a) To re-characterize any income, loss, amount or source and type of payment, or

(b) Where various expenses including main office expenses which any person had to incur to operate any business have yielded benefits to the associated person or persons, to allocate such expenses between the associated persons on the comparative basis of the turnover of the business.

34. Division of income: (1) If any person attempts to divide his income with another person and it appears that it will anyhow lessen the payable tax, the Department may, in order not to allow such less in liability, have the amounts to be included or deducted in computing the income of each person adjusted by giving a notice in writing.

(2) The transfer of the following amounts by one or more interposed entities directly or indirectly between persons and associated persons as mentioned in sub-section (1) and circumstances where attempts are made to divide income to lessen

the tax required to be paid by the persons or associated persons by virtue of that transfer shall also be included:-

- (a) The amounts to be received and expenses to be incurred, or
- (b) The amounts to be received or used from any property by the transferee of that property or expenses incurred or payment made by that person for the acquisition of ownership of that property.

(3) In determining as to whether or not any person has attempted to divide any income pursuant to sub-section (2), the Department shall take the market value of any payment made for the transfer as the basis.

35. General rule against tax avoidance: For purposes of ascertaining the tax liability pursuant to this Act, the Department may carry out the followings:

- (a) To re-characterize any arrangement or any part of such arrangement made or attempted to be made as a part of a tax avoidance scheme,
- (b) To disregard any arrangement or any part of such arrangement that does not show any substantial effect, or
- (c) To re-characterize any arrangement or any part of such arrangement that does not show any substantial element.

Explanation: For purposes of this Section, "tax avoidance scheme" means any arrangement with a main objective to

have avoidance of tax liability or to lessen the tax liability.

## Chapter-8

### Assessment of Net Profit from Property and Liability

36. Net profits from property and liability: (1) The net profits derived from the disposal of business assets or liability of a business of any person for any income year shall be computed by deducting the following losses from the sum of all profits derived from the disposal of business assets or liability of that business in that income year:
- (a) The sum of all losses suffered in that year from the disposal of business assets or liability,
  - (b) The loss that could not be deducted elsewhere out of the net loss suffered from any other business of that person in that year, and
  - (c) The loss that could not be deducted out of the net loss suffered from that business in any income year or from any other business of that person in the past.
- (2) The net profits derived from the disposal of taxable non-business assets of investment of any person for any income year shall be computed by deducting the following losses from the sum of all profits derived from the disposal of taxable non-business assets of that investment in that income year:

- (a) The sum of all losses suffered in that year from the disposal of non-business taxable assets of that investment,
- (b) The loss that could not be deducted elsewhere out of the net loss suffered from any other business or investment of that person in that year, and
- (c) The loss that could not be deducted out of the net loss suffered from that investment, any business or any other investment of that person in any past income year.

(3) Any person can make a claim for deduction pursuant to sub-section (1) or (2) in respect of a loss suffered from the disposal of the property or liability of foreign source only to the extent of the benefit derived from the disposal of any property or liability of foreign source.

(4) If any person is entitled, under sub-section (1) or (2) to deduct the net loss suffered from a business or investment in more than one computation pursuant to sub-section (1) or (2), he may select computations for the purpose of deducting that loss or portion thereof.

Explanation: For purposes of this Section, -

- (1) "Net loss" means, -
  - (a) In respect of any business, the amount to the extent that the loss suffered from the disposal of the business assets or liability of that business in any income year

exceeds the profit derived from the disposal of business assets or liability of that business in that year, and

- (b) In respect of any investment, the amount to the extent that the loss suffered from the disposal of the taxable non-business assets of that investment in any income year exceeds the profit derived from the disposal of taxable non-business assets of that investment in that year.

(2) "Net loss that could not be deducted" means, with respect to any business or investment:

- (a) The loss in any income year that could not be deducted, pursuant to clause (b) or (c) of sub-section (1) or clause (b) or (c) of sub-section (2), out of the net loss suffered by that business or investment in that income year, and
- (b) Any such loss of that business or investment referred to in sub-section (7) of Section 20 that could not be deducted and is not qualified for remission by virtue of the time-limit referred to in sub-section (1) or (2) of Section 20.

37. Profit and loss made from property and liability: (1) The profit derived by any person from the disposal of any property or liability has to be computed, considering it to be the extent that the sum of the income derived from that property or liability exceeds the sum of the outgoings for that property or liability at the time of disposal.

(2) The loss suffered by any person from the disposal of any property or liability has to be computed, considering it to be the extent that the sum of the outgoings for that property or liability exceeds the sum of the income earned from that property or liability at the time of disposal.

38. Expenses and net expenses for property and liability: (1) The following expenses shall be included in the expenses for the property or liability of any person, subject to this Act:

(a) In respect of any property, the expenses made by that person in acquiring that property, inclusive of the following amounts:

(1) The related expenses made in the construction and production of that property, and

(2) <sup>154</sup>Any amount required to be included in the computation of the income of that person as a result of acquisition of such property.

(b) The expenses made by that person in obtaining the ownership of that property or liability, inclusive of the expenses incurred in the alteration, improvement and repair and maintenance of the property or liability, and the expenses in the repair and maintenance of the property,

(c) The expenses made by him in the disposal of the property or liability, and

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<sup>154</sup> Amended by the Financial Act, 2018.

- (d) Casual expenses made by him in acquiring the property or bearing liability and disposing such property or liability.

Provided that the expenses referred to in clauses (a), (b), (c), (d), and (e) of sub-section (1) of Section 21 and the expenses that are allowed to be deducted in the assessment of income are not required to be included in such expenses.

(2) The net expenses for any property or liability at any particular time shall be so computed as to consider the amounts to the extent of excess of the sum of all expenses for that property or liability than the sum of all incomes for that property or liability at that time.

(3) The amount of expenses to be deducted in computing the income as referred to in Chapters-6 and 7 shall be deemed as if they were made in respect of the expenses for any property or liability, and shall be applicable in respect of the expenses referred to in sub-section (1).

Provided that Section 26 shall not apply to the above-mentioned provision.

39. Income and net income for property and liability: (1) The following amounts shall be included in the incomes for the property or liability of any person, subject to this Act:

- (a) The amounts received, in respect of the liability, by that person in bearing the liability,

- (b) The amounts to be received by that person in acquiring the property or in respect of bearing the liability, including the amounts acquired by altering or lessening the value of the property or increasing the liability, and
- (c) The amounts received or to be received by that person in respect of the disposal of that property or liability.

Provided that the amount exempted from tax, taxable amount, <sup>155</sup>payment subject to tax deduction finally or the amounts to be included in the income in assessing the income of that person shall not be included in such income.

(2) The net incomes for any property or liability at any time shall include the amounts to the extent of excess of the incomes for that property or liability than the sum of all expenses for that property or liability at that time.

(3) The amount to be included in the income in computing the income as referred to in Chapters-6 and 7 shall be deemed as if they were made in respect of the incomes for any property or liability, and shall be dealt with pursuant to sub-section (1).

Provided that Section 26 shall not apply to the above-mentioned provision.

40. Disposal of property or liability: (1) If the ownership of any person over any property ceases, he shall be deemed to have disposed that property. The disposal of property has to include acts such as

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<sup>155</sup> Amended by the Financial Act, 2018.

distribution of the property by the owner of the property, amalgamation of the property in other property or liability, sale of the property in installments or lease out to any other person under a financial lease, cancellation, destroy, loss, expiration or surrender of the same.

(2) If the burden of liability of any person ceases, he shall be deemed to have disposed that liability. The disposal of liability has to include acts such as settlement, cancellation, release and completion of the liability or amalgamation of liability in other liability or property.

(3) Notwithstanding anything contained in sub-sections (1) and (2), any person shall be deemed to have disposed any property or liability in the following circumstances:

- (a) In respect of an individual, immediately before the death of that person,
- (b) In respect of any property, if the sum of the incomings for that property exceeds the sum of the outgoings for that property,
- (c) In respect of any property subject to debt claim, -
  - (1) If it has become a bad debt as per the standards as prescribed in respect of a debt claim of a bank or financial institution, and
  - (2) If, in any other circumstance, that person has reasonably believed the debt claim as non-recoverable.

Provided that the person has to have already pursued all proper measures to recover that debt claim.

- (d) If any person has started using business assets, non-business taxable assets, depreciable property or stock-in-trade in a manner to alter the type thereof, immediately before the use of the altered form of that property,
- (e) In the circumstances referred to in Section 57 in respect of any entity, and
- (f) Immediately before that person has become a non-resident person, except the land or building situated in Nepal.

(4) If any person disposes any property by leasing it under a financial lease pursuant to sub-section (1), the lessee of that property shall be deemed to have acquired the ownership of that property at the time of disposal.

(5) The following provisions shall apply for purposes of computing the profits derived by any person from the disposal of the property or liability:

- (a) The amounts of net expenses for any property under ownership of any person at the time of commencement of this Act shall be deemed to be equal to the market value of the property prevailing at that time,

- (b) The amounts of net incomes for liability of any person at the time of commencement of this Act shall be deemed to be equal to the amount as per the market value of the liability prevailing at that time.

41. Disposal along with retention of property or liability: If any person disposes any property or liability in any manner referred to in clauses (c), (d), (e) and (f) of sub-section (3) of Section 40, the following provisions shall apply:

(a) In respect of property, -

(1) That person shall be deemed to have received the amount equal to the market value of that property at the time of disposal for the disposal, and

(2) <sup>156</sup>When that property is re-disposed, the net outgoings made for that property until the time of disposal pursuant to this Section shall be deemed to be equal to the amount receivable.

(b) In respect of liability, -

(1) That person shall be deemed to have spent the amount equal to the market value of that liability at the time of disposal for the disposal, and

(2) <sup>157</sup>When that liability is re-disposed, the incomings derived for that liability pursuant to clause (1) until that time shall be deemed to be equal to the amount of expenses.

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<sup>156</sup> Amended by the Financial Act, 2018.

<sup>157</sup> Amended by the Financial Act, 2018.

42. Disposal through installment sale or financial lease: If any person disposes any property by way of installment sale or lease under a financial lease to any other person, the following provisions shall apply:

- (a) The person who has disposed the property shall be deemed to have received the amount equal to the market value of that property at the time of disposal for the disposal, and
- (b) The person who has acquired the property through disposal shall be deemed to have incurred cost in a sum equal to clause (a).

Provided that this provision shall not be applicable where the provision of Section 45 applies.

43. Transfer of property to husband, wife or former husband, wife: If any individual who is a divorcee or lives apart upon having partition share disposes a property by transferring it to her husband, his wife or former husband, wife, and that husband, wife or former husband, wife makes a choice in writing to have this Section enforced, the following provisions shall apply:

- (a) That person shall be deemed to have obtained, for disposal, the amount equal to the net expenses incurred immediately before the disposal, and
- (b) The person who has acquired the property through transfer shall be deemed to have incurred cost in a sum equal to clause (a).

44. Transfer of property after death: If the ownership of any property is disposed through transfer to any other person because of death of any individual, the following provisions shall apply:
- (a) That person shall be deemed to have obtained, for disposal, the amount equal to the market value of that property prevailing at the time of disposal, and
  - (b) The person who has acquired the property through transfer shall be deemed to have incurred cost in a sum equal to clause (a).
45. Transfer between associated persons and other non-market transfers:
- (1) If any person disposes any property by transferring it to an associated person or any other person for no consideration, the following provisions shall apply:
- (a) The person who has disposed the property shall be deemed to have received the amount equal to the market value of that property at the time of disposal for the disposal, and
  - (b) The person who has acquired the property through disposal shall be deemed to have incurred cost in a sum equal to clause (a).

Provided that this provision shall not apply where the provision of Section 45 applies.

<sup>158</sup>(c) In the case of the property transferred pursuant to sub-clause (5) of clause (r) of Section 2, the costs incurred by the person transferring such property shall be deemed to be the costs incurred by the person acquiring such property.

(2) Notwithstanding anything contained in sub-section (1), if any person disposes any business assets, non-business <sup>159</sup>taxable assets or property remaining as stock-in-trade by transferring ownership over such property to any associated person and the matters contained in sub-section (6) are fulfilled, the following provisions shall apply:

(a) That person shall be deemed to have received the amount equal to the net loss suffered for that property immediately before the disposal, for the disposal, and

(b) The person who has acquired the property through transfer shall be deemed to have incurred cost in a sum equal to that mentioned in clause (a).

(3) Notwithstanding anything contained in sub-section (1), if any person disposes any depreciable property by transferring ownership over such property to any associated person by fulfilling the matters contained in sub-section (6), the following provisions shall apply:

(a) That person shall be deemed to have received, for the disposal, the amount equal to the remaining value of the

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<sup>158</sup> Inserted by the Financial Act, 2018.

<sup>159</sup> Amended by the Financial Act, 2018.

group of the descending system pursuant to Section 4 of Schedule-2 at the time of disposal, and

- (b) The person who has acquired the property through transfer shall be deemed to have incurred cost in a sum equal to that mentioned in clause (a).

(4) If any person disposes any liability by transferring it to an associated person pursuant to this Section or by transferring it to any other person without <sup>160</sup>giving any value, the following provisions shall apply:

- (a) The person shall be deemed to have incurred cost for the disposal in a sum equal to the market value or the net income earned for the liability immediately before the disposal, whichever is lower, and
- (b) The transferee of the liability shall be deemed to have received an amount equal to that liability in respect of assumption of the liability.

Provided that this provision shall not be applicable where the provisions of Sections 43 and 44 apply.

(5) If any person disposes any liability assumed in earning income from any of his business by transferring it to an associated person, by fulfilling the matters mentioned in sub-section (6), the following provisions shall apply:

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<sup>160</sup> Amended by the Financial Act, 2018.

- (a) The person shall be deemed to have incurred cost for the disposal in a sum equal to the net income earned for the liability immediately before the disposal, and
  - (b) The associated person shall be deemed to have received an amount equal to that amount in respect of assumption of the liability.
- (6) For purposes of sub-sections (2), (3) and (5), the following matters have to be fulfilled:
- (a) The disposed business assets, stock-in-trade or depreciable assets of business shall be the business assets, stock-in-trade or depreciable assets of business of the associated person immediately after the transfer by the person making such disposal.
  - (b) The disposed non-business taxable assets, stock-in-trade or depreciable property of any investment shall be the business assets, non-business taxable assets stock-in-trade or depreciable property of the associated person immediately after the transfer by the person making such disposal.
  - (c) In the case of any liability, the liability has to be transferred to the associated person for the earning of income from any business or investment of the associated person.

- (d) The transferor and the associated person shall have to be residents at the time of transfer, and the associated person has not to be a person enjoying tax exemption.
- (e) The ownership vested in that property or burden vested in that liability shall continue to exist fifty percent as the case may be.
- (f) Both of that person and the associated person have to make request in writing in order to enforce an option under sub-section (2), (3) or (5), as the case may be.

46. Involuntary disposal of property or liability with substitution: (1) If any person, no later than one year of the involuntary disposal of any property in any mode out of the modes mentioned in sub-section (1) of Section 40, acquires ownership over other property of similar type in lieu of that property and makes request in writing to have this Section applied, it shall be as follows:

- (a) That person shall be deemed to have received, for the disposal, an amount equal to the sum of the following amounts:
  - (1) Net expenses for that property immediately before the disposal, and
  - (2) If the amount derived from the disposal exceeds the expenses incurred in acquiring the substituted property, the amount of such excess, and

(b) The person shall be deemed to have incurred expenses in a sum equal to the sum of the following amounts, in acquiring the substituted property.

(1) Net expenses for the disposed property immediately before the disposal, and

(2) If the expenses incurred in acquiring the substituted property exceed the amount derived from the disposal, the amount of such excess.

(2) If any person, no later than one year of the involuntary disposal of any liability in any mode out of the modes mentioned in sub-section (2) of Section 40, bears other liability of similar type in lieu of that liability and makes request in writing to have this Section applied, it shall be as follows:

(a) That person shall be deemed to have incurred expenses, for the disposal, in a sum to be set by subtracting the amount mentioned in clause (2) from the amount mentioned in clause (1):

(1) Amount for net incomes for that liability immediately before the disposal, and

(2) If the expenses incurred in making that disposal exceed the amount in assuming the substituted liability, the amount of such excess expenses.

(b) The person shall be deemed to have received a sum equal to the sum of the following amounts, in acquiring the substituted liability:

- (1) Net incomes for the disposed liability immediately before the disposal, and
- (2) If the amount derived in assuming the substituted liability exceeds the expenses incurred in making the disposal, the amount of such excess.

(3) The circumstances where involuntary disposal is created after substitution of one security of any entity for another security as a result of a change in the security of the interest in the entity or restructuring of the entity shall be as prescribed.

47. Disposal upon amalgamation of property and liability: (1) If, as a result of acquisition of any property or bearing of any liability by any person, any other property under ownership of, or any other liability borne by, that person ceases or is amalgamated and thus disposal takes place, then the following provisions shall apply:

- (a) Where net expenses were incurred for the amalgamated property or liability immediately before disposal, that person:

- (1) shall be deemed to have received an amount equal to the net expenses in respect of the disposal of the amalgamated property or liability,

Provided that such amount shall not exceed the amount received by that person for the amalgamated liability.

(2) shall be deemed to have incurred expenses in a sum equal to that amount in holding ownership or bearing liability of the amalgamated property.

(b) Where net incomes were earned for the amalgamated liability in respect of the amalgamated liability, immediately before the disposal of the liability, that person:

(1) shall be deemed to have incurred expenses in a sum equal to net incomes for the disposal of the amalgamated liability,

Provided that in the case of the amalgamated property, that amount shall not exceed the amount spent by that person in acquiring that property.

(2) shall be deemed to have received an amount equal to that amount in holding ownership of or bearing liability of the amalgamated property.

(2) Without prejudice to the matters contained in sub-section (1), that sub-section shall also apply to the following circumstances:

(a) If that person carries out an act of acquisition or sale of any property,

(b) If that person acquires the property leased, and

- (c) If the guaranteed liability is transferred by the transferee.

<sup>161</sup>47A. Special provision on disposal as a result of merger of business: (1)

In the case of merger or acquisition of entities of the same nature carrying on banking and financial business or insurance business, the provisions of clauses (a), (b), (d), (e), (f) and (g) of sub-section (2) of Section 57 and sub-section (3) of the same Section shall not apply.

Provided that if there remains any loss of the entity not in existence due to merger which could not be deducted, such loss shall be deducted on pro rata in the upcoming seven years. If the entity so deducting the loss in equal installment is re-divided prior to the deduction of the whole loss, tax shall be paid in amount deducted for such loss at the rate of tax prevailing in the fiscal year in which merger or acquisition took place.

(2) If the property and liability are disposed upon the merger of the entities pursuant to sub-section (1), it shall be as follows:

(a) In the case of stock-in-trade and business assets, -

- (1) Amount equal to net expenses for property immediately before the disposal shall be deemed to have been received by such person for such disposal, and

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<sup>161</sup> Inserted by the Financial Act, 2018.

- (2) Amount equal to that mentioned in sub-clause (1) shall be deemed to have been spent by the person acquiring property.
- (b) In case of disposal of depreciable property, -
  - (1) Amount equal to the remaining value of the group of descending system pursuant to Section 4 of Schedule-4 at the time of disposal shall be deemed to have been received for such disposal, and
  - (2) Amount equal to that mentioned in sub-clause (1) shall be deemed to have been spent by the person acquiring property.
- (c) In case of disposal of liability, -
  - (1) Amount equal to the market value immediately before the disposal or to the net income of liability, whichever is lesser, shall be deemed to have been spent by that person for such disposal, and
  - (2) Amount equal to that mentioned in sub-clause (1) shall be deemed to have been received by the person bearing liability as result of bearing such liability.
- (d) The entity amalgamating the business or the entity being amalgamated shall, in computing the cost of property and liability, compute only the cost of the

property and liability maintained at the time of operating such amalgamated business (before merger or acquisition) by the amalgamated entity pursuant to clauses (a), (b) and (c).

(3) In the case of additional lump sum payment to be made for the purpose of granting retirement in a group to the employees working in the entity disposed upon being amalgamated or the entity post the merger pursuant to sub-section (1), tax deduction shall be made from the payment by giving exemption of fifty percent of the rate by which tax has to be deducted from the retirement payment (except the payment to be made through retirement fund or as mentioned in the terms of conditions of the employee).

(4) If the shareholders existing in the entity being disposed after amalgamation pursuant to sub-section (1) dispose their shares through sale within two years of such amalgamation, no capital gain tax shall be levied in the gain earned from such disposed shares.

(5) No tax shall be levied in dividends distributed to the shareholders existing at the time of amalgamation of the entity pursuant to sub-section (1) within two years of such amalgamation.

(6) <sup>162</sup>The entity of same category willing to be amalgamated pursuant to sub-section (1) shall provide the letter of intent for amalgamation to the Inland Revenue Department not later than the end of Ashad 2079 (14 July 2022).

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<sup>162</sup> Amended by the Financial Act, 2021.

(7) <sup>163</sup>The entity submitting the letter of intent for amalgamation pursuant to sub-section (6) to be amalgamated pursuant to sub-section (1) shall complete the procedure not later than the end of Ashad 2080 (14 July 2023).

(8) The entities that are amalgamated after the commencement of this Section but have not utilized the facility referred to in this Section may also utilize the facility accordingly.

(9) The provision of this Section shall not be deemed to be applicable to an entity that does not submit the letter of intent within the time specified in sub-section (6) and to an entity that does not complete the process of amalgamation within the date mentioned in sub-section (7).

48. Disposal of property and liability through division: If the rights related with any property owned by or the burdens related with any liability borne by any person devolve on any other person also by way of lease of any property or any part thereof, the following provisions shall apply:

(a) Where the rights or burdens are permanent, that first person shall be deemed to have disposed any part of that property or liability but not to have acquired any new property or liability, and

(b) Where the rights or burdens are temporary or contingent, that first person shall be deemed not to have disposed any part of that property or liability.

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<sup>163</sup> Amended by the Financial Act, 2021.

Provided that such person shall be deemed to have acquired a new property or assumed a new liability, as the case may be.

49. Disposal through allocation of incomes and expenses: (1) Any person shall, in the following circumstances, allocate the expenses or incomes made in acquiring, bearing or disposing any property or liability between properties and liabilities, on the basis of the market value at the time of acquisition, bearing or disposal, as the case may be:

- (a) Where one or more properties are acquired or one or more liabilities assumed at the same time,
  - (b) Where one or more properties or liabilities are disposed at the same time.
- (3) If any person who holds ownership of any property or bears any liability disposes any part of that property or liability, the net expenses or net incomes of that property or liability immediately before the disposal have to be allocated in the portion of the disposed property or liability and in the remaining portion, as the case may be, on the basis of the market value thereof immediately after the disposal.

## Chapter -9

### Special Provisions Relating to Individual

50. Spouse: (1) Both a resident individual and his/her resident husband or wife may, by giving a notice in writing, choose to be treated as one individual in any specific income year for tax purposes.

(2) The husband or wife out of the spouses who choose the provision contained in sub-section (1) in respect of any income year shall be jointly and severally responsible between each other for the tax payable by them in that year.

<sup>164</sup>(3) Notwithstanding anything contained in sub-sections (1) and (2), a resident widow or widower responsible for bearing the dependent shall be deemed as couple.

51. Tax adjustment for medical treatment: (1) Any resident individual may make a claim for adjustment of tax for medical treatment in any income year for the approved medical expenditure incurred by himself or through any other person for himself.

(2) The tax adjustment amount for medical treatment of an individual in any income year shall be computed also by adding any amount, if any, referred to in sub-section (4) to the amount to be set by fifteen per cent of the approved medical treatment expenditure referred to in sub-section (1).

(3) Notwithstanding anything contained in sub-section (2), the amount of tax adjustment for medical treatment claimed by an individual in any income year shall not exceed the prescribed limit.

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<sup>164</sup> Inserted by the Financial Act, 2018.

(4) In the case of any individual in any income year, the excess amounts as mentioned in clauses (a) and (b), up to the following limit, may be carried forward and be included in the amount referred to in sub-section (2) in the forthcoming years:

- (a) Where the amount referred to in sub-section (2) exceeds the limit referred to in sub-section (3), the amount of such excess, and
- (b) The amount to the extent that the person referred to in clause (a) of Section 3 is not allowed to use tax adjustment for medical treatment because of being less than the amount of tax payable by that person in that year.

Explanation: For purposes of this Section, "approved medical treatment expenditure" means the approved medical treatment expenditure as prescribed.

## Chapter-10

### Special Provisions for Entities

52. Principle of taxation applicable in respect of entities: (1) For purposes of payment of tax, any entity shall be responsible distinctly from its beneficiaries.

(2) Distributions to be made by an entity shall be as mentioned in Section 53, and in distribution to be so made, tax shall be imposed on its beneficiaries pursuant to Section 54.

(3) The amounts derived by and expenses borne by an entity shall be deemed to have been received or borne by the entity

irrespective of whether or not the entity has derived the same or borne expenses for another person.

(4) A property under ownership of an entity and the liability borne by it shall be deemed to be under ownership or burden of the entity. Such property under ownership and liability borne shall not be deemed to be under the ownership or burden of any other person.

(5) Foreign income tax paid by the manager, beneficiary of an entity or the entity, whosoever, for the income of the entity shall be deemed to have been paid by the entity.

(6) Transactions between any entity and its managers and beneficiaries shall be recognized subject to Chapter-7 and Section 45.

53. Distribution by entity: (1)The following matters have to be included in the distribution to be made by an entity:

(a) Payment made by the entity to any of its beneficiaries in any capacity, or

(b) Capitalization of profits.

(2) Notwithstanding anything contained in sub-section (1), any payment referred to in clause (a) of that sub-section shall be deemed to have been distributed only in the following circumstances:

(a) Where the payment exceeds the amount paid by a beneficiary to the entity in exchange for a consideration likely to be obtained from the entity, and

(b) Where the following amounts are not included in the payment:

(1) The amounts included in computing the income of the beneficiary,

(2) The payments from which tax has been deducted finally except for reason of distribution.

(3) Only if the distribution of any entity reduces the value of property or liability of that entity, such distribution shall be deemed to be a distribution of profits or return of capital.

(4) In any of the following circumstances, a distribution of any entity shall be deemed to be a distribution of profits, subject to Section 55:

(a) Where the distribution is of a type referred to in sub-section (3) and the amount as per the market value of the property exceeds the total amount of capital contribution consisting of the market value of the liability of the entity at the time of distribution and of capitalized profits, as well,

(b) Where profits are capitalized.

(5) The distribution referred to in sub-section (3) shall be deemed to be a return of capital to the extent of non-distribution of profits.

(6) The distribution of any entity shall be deemed to be a dividend of that entity to the extent of non-return of capital.

Explanation: For purposes of this Section, "capitalization of profits" means and includes any capitalization made by issuing bonus share or similar other interest or increasing the paid-up sum of the interest of that entity or crediting the profits to the premium and capital account of that entity.

54. Tax in dividend: (1) On the dividend distributed by a resident body, it shall be as follows:

(a) <sup>165</sup>If dividend is distributed to the shareholder of any company or partner of any partnership firm, tax shall be imposed as per the mode of final tax deduction, and

(b) <sup>166</sup>No tax shall be imposed on distribution, if any, made by other entities.

(2) The dividend distributed by any non-resident person to any resident beneficiary shall be included in the income of the beneficiary and tax imposed accordingly.

<sup>167</sup>(3) Notwithstanding anything contained in sub-section (1), no tax shall be levied on the dividend received after tax deduction if it is distributed.

(4) <sup>168</sup> .....

(5) The incomes referred to in Chapter-8 receivable for the interest of a beneficiary of an entity have to include the amount for capital return made by any entity for that interest.

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<sup>165</sup> Amended by the Financial Act, 2018.

<sup>166</sup> Amended by the Financial Act, 2018.

<sup>167</sup> Amended by the Financial Act, 2018.

<sup>168</sup> Removed by the Financial Act, 2018.

Provided that the dividend distributed by the entity is not required to be included.

55. Dissolution of entity: (1) A distribution made in proportion to the portion of profit earned by and that of capital contributed by any beneficiary in disposing the interests in the course of dissolution of any entity shall be deemed to be the payment of partial dividend and partial capital of that entity, if all of the following conditions are fulfilled:

(a) Where any distribution has been made by such entity in respect of cancellation, release or acceptance of the interest in that entity because of, *inter alia*, purchase by the entity of its interest or dissolution of the entity by following the process of law in force,

(b) Where, except in cases of full dissolution, the rights of the beneficiaries in the portion of profits of that entity have not been computed in proper portion or could not be computed reasonably, and

(c) Where the beneficiary who gets that distribution is not an associated person with the entity after the disposal.

(2) Notwithstanding anything contained in sub-section (1), the provisions contained in that sub-section and Section 53 shall not be applicable if any entity purchases the interest of any beneficiary in the entity through the securities market recognized under the law in force and makes distribution to that beneficiary.

56. Transaction between entity and beneficiary: (1) If a property is disposed through transfer of ownership over the property in any manner of distribution between an entity and its beneficiary or in any other manner subject to Section 45, it shall be as follows:

(a) The transferor of the property shall be deemed to have received, from the disposal, an amount equal to the market value of the property immediately before the disposal, and

(b) The transferee of the property shall be deemed to have incurred cost in a sum equal to that mentioned in clause (a) in acquiring the property.

(2) If any liability is disposed through transfer of the liability between any entity and its beneficiary subject to Section 45, it shall be as follows:

(a) The transferor of the liability shall be deemed to have incurred cost, in disposing the liability, in a sum equal to the market value of the liability immediately before the disposal, and

(b) The transferee of the liability shall be deemed to have received an amount equal to that mentioned in clause (a) in assuming the liability.

(3) If any entity distributes dividends except profits as dividends to any beneficiary, the amount of such dividends shall be included in computing the income of the entity.

Provided that provisions may be made to exclude the matters contained in this sub-section in any circumstance as prescribed.

57. Change in control: (1) If the ownership of any entity changes by fifty per cent or more as compared to its ownership until before the last three years, the entity shall be deemed to have disposed the property under its ownership or the liability borne by it.

<sup>169</sup>(1a) For the purpose of computing change in ownership of fifty percent or more than fifty percent of any entity referred to in sub-section (1), only the following ownership of such entity shall be included:

- (a) Ownership held by a shareholder holding one percent or more than one percent of the total ownership, and
- (b) Ownership held by the associated person of a shareholder holding more than one percent of the total ownership of such entity, among shareholders holding less than one percent of the total ownership.

(2) If the ownership of any entity is changed as mentioned in sub-section (1), the entity shall not be allowed to carry out the following acts after such change:

- (a) To deduct interest incurred by that entity prior to the change in ownership and carried forward pursuant to sub-section (3) of Section 14,
- (b) To deduct the loss suffered by that entity prior to the change in ownership, pursuant to Section 20,

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<sup>169</sup> Inserted by the Financial Act, 2018.

- (c) To carry back a loss suffered after the change in ownership in any income year before such change, pursuant to sub-section (4) of Section 20,<sup>170</sup> .....,
- (d) To make adjustment pursuant to sub-section (4) of Section 24, if it has been calculated for any amount or expenses pursuant to clause (a) of sub-section (4) of Section 24 prior to the change in ownership, and correction has been made on that amount or <sup>171</sup>expenses pursuant to sub-section (4) of Section 24 after the change in ownership,
- (e) To make adjustment pursuant to sub-section (1) of Section 25, if any amount has been calculated pursuant to clause (b) of sub-section (1) of Section 25 prior to the change in ownership and the right to receive that amount has been relinquished or in the event of that being a debt claim, such person has written off such amount as a bad debt, after the change in ownership,
- (e) To subtract, pursuant to Section 36, the loss suffered in disposing any property or liability prior to the change in ownership from the income earned from the disposal of the property or liability after the change in ownership,
- (f) If premium has been calculated pursuant to sub-clause (1) of clause (b) of sub-section (4) of Section 60, prior to the change in ownership and such premium has been

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<sup>170</sup> Removed by the Financial Act, 2018.

<sup>171</sup> Amended by the Financial Act, 2018.

returned to the insured after the change in ownership, to claim for credit accordingly, or

- (g) To carry forward in the forthcoming year the tax paid in respect of a foreign income prior to the change in ownership, pursuant to Section 71.

(3) If the ownership of any entity changes in any manner mentioned in sub-section (1) in any income year, the parts before and after the change in ownership in that income year shall be treated as separate income years.

58. Provision restricting reduction of dividend tax: <sup>172</sup>(1) An arrangement made by any entity upon maintaining all of the following arrangements shall be deemed to be an arrangement made for reducing dividend tax:

- (a) Where profit of such entity is reserved, current or expected,
- (b) Where any person who acquires an interest of the entity and the recipient of the interest or his or her associated person makes any payment to the present or previous beneficiary of the entity or his or her associated person irrespective of whether or not it is related to the acquisition of interest and whether or not it is made at the time of acquisition of interest,
- (c) Where the payment is fully or partly reflected in the profits of the entity, and

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<sup>172</sup> Amended by the Financial Act, 2018.

(d) Where the entity distributes dividends to the recipient of interest and the profits cover the dividends fully or partly.

(2) If dividends are distributed by any entity under an arrangement reducing dividend tax made pursuant to sub-section (1), the arrangement shall be deemed to be as follows:

(a) Payment made by the recipient of interest or his or her associated person shall not be deemed as payment made by that person but as distribution by that entity of dividends to the previous or present beneficiary referred to in clause (b).

(b) Dividends distributed by that entity to the recipient of interest shall be deemed as equal to a sum to be set by subtracting the amount of payment said to have been made from the dividends referred to in clause (a).

## Chapter-11

### Special Provisions on Banking and Insurance Business

59. Banking business: (1) In computing the income or loss made by any person carrying on a banking business from that business in any income year, it shall be separately computed as if the banking business were a business distinct from any other business carried on by that person.

<sup>173</sup>(1a) Amount up to five percent of the amount of loan due to be recovered kept in the risk bearing fund by the person operating banking business and amount managed for non-banking property

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<sup>173</sup> Inserted by the Financial Act, 2018.

shall be deducted as expenses, subject to the standards prescribed by the Nepal Rastra Bank.

<sup>174</sup>(1b) Amount up to five percent of the amount of loan due to be recovered kept in the risk bearing fund by a cooperative organization shall be deducted as expenses.

<sup>175</sup>(1c) If expenses are accounted from the profits where the risk bearing fund is maintained pursuant to sub-sections (1a) and (1b), the same shall not be remitted, and if the amount held in such fund is capitalized or profit or dividend is distributed, its shall be included in the income in the year in which it is distributed.

<sup>176</sup>(2) .....

<sup>177</sup>(3) .....

60. General insurance business: (1) In computing the income or loss made by any person carrying on a general insurance business from that business in any income year, it shall be separately computed as if the insurance business were a business distinct from any other business carried on by that person.

(2) In computing the income of any person carrying on the insurance business in any income year, it shall be done as follows:

(a) In income, in addition to any other amounts required to be included, the following amounts, as well, have to be included:

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<sup>174</sup> Inserted by the Financial Act, 2018.

<sup>175</sup> Inserted by the Financial Act, 2018.

<sup>176</sup> Removed by the Financial Act, 2018.

<sup>177</sup> Removed by the Financial Act, 2018.

- (1) Amounts for premium of insurance including premium for reinsurance received by that person from that business in that year, and
  - (2) Amounts received in that year from payments referred to in sub-clause (1) of clause (b) for any contract of reinsurance, security, guarantee or compensation.
- (b) In expenses, in addition to the amounts that can be deducted, the following amounts, as well, may be deducted:
- (1) Payments made by that person as an insurer in operating that business in that year, and
  - (2) Premiums included pursuant to sub-clause (1) of clause (a) in computing the income earned from that business in that year or last year and returned to the insured in that year.
- <sup>178</sup>(3) Sum of the following amounts kept in the risk bearing fund:
- (a) Amount up to fifty percent of the net insurance cost shown in the profit and loss account of any year, and
  - (b) Amount up to one hundred and fifteen percent of the remaining amount for payment of claim at the end of any year.

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<sup>178</sup> Inserted by the Financial Act, 2018.

Provided that the amount received as deduction in expenses in any year pursuant to this sub-clause shall be included in income in computing the income of insurance business in forthcoming income year.

<sup>179</sup>(3) .....

<sup>180</sup>(4) .....

61. Investment insurance business: (1) In computing the income or loss made by any person carrying on an investment insurance business from that business in any income year, it shall be separately computed as if the investment insurance business were a business distinct from any other business carried on by that person.

(2) It shall be as follows in computing the income of any person carrying on the investment insurance business in any income year, it shall be as follows:

(a) Except the following amounts, other amounts that can be included pursuant to this Act have to be included:

(1) Amounts reinsurance for premium of insurance including premium received by that person in operating that business in that income year, and

(2) Amounts received in that year from payments referred to in sub-clause (1) of clause (b) for any

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<sup>179</sup> Removed by the Financial Act, 2018.

<sup>180</sup> Removed by the Financial Act, 2018.

contract of reinsurance, security, guarantee or compensation.

(b) Except the following amounts, other amounts that can be deducted pursuant to this Act have to be deducted:

(1) Payments made by any person as an insurer in operating that business, and

<sup>181</sup>(2) Premiums referred to in sub-clause (1) of clause (a) returned to the insured.

(3) The amounts referred to in sub-clauses (1) and (2) of clause (a) and sub-clauses (1) and (2) of clause (b) of sub-section (2) <sup>182</sup>shall not be considered as incomes and expenses for the property or liability of that person.

(4) The investment insurance agreement of investment insurance business of any person shall not be deemed as the property and liability of that person.

62. Amount received from insurance:(1) For purposes of computing the income of any person, the provisions contained in Section 31 shall apply in respect of the amount received by that person from insurance.

(2) Notwithstanding anything contained in sub-section (1), the following provisions shall apply in respect of the profits made from investment insurance:

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<sup>181</sup> Amended by the Financial Amendment Act, 2018.

<sup>182</sup> Amended by the Financial Amendment Act, 2018.

- (a) If a resident person makes payment of such amount, tax shall be imposed on the insured through final tax deduction, and
- (b) If a non-resident person makes payment of such amount, it shall be computed by including that amount in the income of the insured.

Explanation: For purposes of this Section, "profits made from investment insurance" means the excess sums of payment received by any person for investment insurance in respect of that insurance over the premiums paid by that person.

## Chapter-12

### Special Provisions on Retirement Saving

63. Approval of retirement fund:(1)If a resident person who desires to hold a retirement fund makes an application to the Department for having the retirement fund, the Department shall give approval as prescribed.

<sup>183</sup>Provided that such fund as the Citizens Investment Trust formed under the Citizens Investment Fund Act, 2047 (1991) or Social Security Fund formed under the Contribution-Based Social Security Fund Act, 2074 (2017), if it wishes to maintain a retirement fund, the Employee Provident Fund formed under the Employee Provident Fund Act, 2019 (1962) or the Retirement Fund formed under the Retirement Fund Act, 2075(2018) operates a retirement fund, it shall not be required to obtain approval for such fund.

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<sup>183</sup> Amended by the Financial Act, 2019.

(2) An individual who is the beneficiary of the retirement fund may make a claim to have the retirement contribution made to the fund in any income year <sup>184</sup> deducted while computing his income.

(3) Notwithstanding anything contained in sub-section (2), the amount claimed by any person for deduction in any income year pursuant to that sub-section shall not exceed the prescribed limit of retirement contribution.

64. Tax in retirement fund: (1) For purposes of assessing the income of the retirement fund, the amounts to be included or deducted pursuant to this Act shall be included or deducted in computing the income.

Provided that, -

(a) Contributions made to the fund shall not be the income of the fund and such contributions shall not be included in computation.

(b) Retirement payments shall not be the expenses of the fund and such payments shall not be deducted in computing the income.

(c) Interest of any beneficiary in the retirement fund shall not be a liability of the fund.

(2) No tax shall be levied in the income of the retirement fund.

(3) If any retirement fund ceases to remain in a form of such fund, such fund has to pay tax at the rate <sup>185</sup> mentioned in sub-

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<sup>184</sup> Amended by the Financial Act, 2018.

<sup>185</sup> Amended by the Financial Act, 2018.

section (1) of Section 2 of Schedule-1 by subtracting the amount referred to in clause (b) from the amount referred to in clause (a).

- (a) All retirement contributions paid to the fund between the period from the date when the fund got approval as a retirement fund and the date when the recognition ceased to exist and all income amounts treated as taxable incomes if sub-section (2) is not applicable,
- (b) All retirement payments made by the fund between the period from the date when the fund got approval as a retirement fund and the date when the recognition ceased to exist.

65. Retirement payments: (1) For the purposes of computing retirement payment income earned by any individual from the interest<sup>186</sup> based on contribution held in any approved retirement fund, or<sup>187</sup> retirement payment from the Government of Nepal, the following provisions shall apply:

- (a) Retirement payments made by the fund for the interest in the fund have to be included in the income, and
- (b) Notwithstanding anything contained in clause (a), if such payment is made in lump sum, the payment to be set by subtracting fifty per cent of the paid amount or five hundred thousand rupees, whichever is higher, from the amount so paid shall be deemed as the profit made

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<sup>186</sup> Inserted by the Financial Act, 2018.

<sup>187</sup> Inserted by the Financial Act, 2018.

by the person from the disposal of his non-business taxable assets.

(2) For the purposes of computing the profit made by any individual from the interest in any retirement fund that has not obtained approval, the following provisions shall apply:

- (a) Where a resident person has made payment, tax shall be imposed on the beneficiary in that amount as withholding of tax finally, and
- (b) Where a non-resident person has made payment, that amount has to be included in computing the income of the beneficiary.

Explanation: For the purposes of this Section, 'profit made from the interest in any retirement fund that has not obtained approval' means, if retirement payments made from a retirement fund which has not obtained approval to a beneficiary individual for his interest in the fund exceed the amounts of retirement contributions paid by that person to that fund for his interest in the fund, the amount to the extent of such excess.

<sup>188</sup>Provided that payment made from any non contributory fund shall not be considered as benefit from interest held in the retirement fund not approved.

<sup>189</sup>66. ....

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<sup>188</sup> Inserted by the Financial Act, 2018.

<sup>189</sup> Repealed by the Financial Act, 2018.

## Chapter-13

### International Tax

67. Source of income, loss, profit and payment: (1) If, in the source of income earned from any employment, business or investment of any person, the amounts mentioned in clause in (a) exceed the amounts mentioned in clause (b), the amounts to the extent of such excess shall be deemed to have source in Nepal.

(a) The amounts with source in Nepal included in computing the income,

(b) The amounts with source in Nepal deducted in computing the income.

(2) If the amounts mentioned in clause (a) exceed the amounts mentioned in clause (b) in the loss suffered from any employment, business or investment of any person, the amounts to the extent of such excess shall be deemed to have source in Nepal.

(a) The amounts with source in Nepal to be deducted in computing the income of the business or investment,

(b) The amounts with source in Nepal included in computing the income.

(3) The amounts to be included in computing the income shall be deemed to have source in Nepal in the following circumstances:

(a) The net profits referred to in clause (c) of sub-section (2) of Section 7 or clause (b) of sub-section (2) of Section 9

to be set by subtracting the loss suffered from the disposal of the property or liability with source in Nepal from the profit made from the disposal of the property or liability with source in Nepal,

- (b) If a property situated in Nepal or a liability to be borne in Nepal is included, the profits and amounts to be included in computing the income as mentioned in clause (d) of sub-section (2) of Section 7 or clause (c) of sub-section (2) of Section 9,
- (c) Received payments with source in Nepal, subject to clauses (a) and (b).

(4) If a property situated in Nepal or a liability to be borne in Nepal is included, the source of profit or loss made or suffered from the disposal of the property or liability shall be deemed to have source in Nepal.

(5) If the following amounts are included in the amounts deducted in assessing the income, the source of such amounts shall be deemed to be in Nepal:

- (a) The amount that can be deducted as cost expenditure mentioned in sub-section (1) of Section 15 in respect of the properties situated in Nepal,
- (b) The expenses referred to in sub-section (1) of Section 16 in respect of the properties situated in Nepal, and the expenses to the extent allowed to be deducted pursuant to Section 19, and

- (c) The payments with source in Nepal, subject to clauses (a) and (b).
- (6) The following payments shall be deemed to have source in Nepal:
  - (a) Dividends paid by a resident entity,
  - (b) Interest paid by a resident person,
  - (c) Payment for natural resources made in respect of the natural resource derived from the land situated in Nepal or calculated with reference to such source,
  - (d) Rent paid for the use of any property situated in Nepal,
  - (e) Royalty received by any person for having allowed any one to use any property situated in Nepal or accepting the right to use the property or the restriction on the use of such property,
  - (f) Amount for the general insurance paid by any person in respect of insurance against risks in Nepal and premium paid to that person for general insurance,
  - (g) Payments received by any person as follows by operating inland, sea or air transport or charter service business in Nepal except as a result of transshipment:
    - (1) The carriage of departing passengers, or
    - (2) The shipment of mail, livestock or other direct movable property.

- (h) Payments received by a person who carries a business of dispatching information or news through means of communication such as wire, radio, optical fiber or satellite in respect of dispatch of news or information through networks established in Nepal, irrespective of whether or not such news or information is originated in Nepal,
- (i) Payments in the following circumstance inclusive of service charges of the kinds not mentioned in clauses (g) or (h) for doing employment or rendering service or accepting restriction in those acts:
  - (1) Where the acts are carried out in Nepal irrespective of the place of payment, or
  - (2) Where the Government of Nepal is to make payment irrespective of the place of <sup>190</sup>employment.
- (j) Annuities, amount for investment insurance and retirement pension paid by a resident person, which does not fall under clause (i), and any premium or other payment paid to the resident person in order to ensure such amounts,
- (k) Gifts received in respect of a business or investment operated from the property situated in Nepal, and
- (l) The following payments except those mentioned in clauses (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k), above:

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<sup>190</sup> Amended by the Financial Act, 2018.

(1) Payments made in respect of disposal of the property situated in Nepal or in respect of acquiring liability to be borne in Nepal, or

(2) Payments made in respect of activities carried out in Nepal.

(7) Any income, loss, amount, profit or payment except the one which is deemed to have source in Nepal as mentioned in the above-mentioned sub-sections, and the references to Nepal given in this Act shall be applicable as if they were used in the case of any particular foreign country for purposes of ascertaining as to which country such income, loss, amount, profit or payment has source in.

Explanation: For purposes of this Section, -

(a) "Property situated in Nepal" means the land or buildings situated in Nepal and the property other than land or building of a resident person situated in any foreign country or if the person is associated with a controlled foreign entity pursuant to Section 69, inclusive his interest in that entity.

(b) "Liability to be borne in Nepal" means the liability of a resident person.

68. Foreign permanent establishments: (1) Notwithstanding anything contained in Section 3, any foreign permanent establishment of a non-resident person situated in Nepal shall be liable to pay tax payable on the income of such establishment, subject to other provisions of this Act.

(2) The income of a person having ownership of a foreign permanent establishment shall be separated from the income of that establishment, pursuant to Section 69.

(3) Tax shall be imposed on the permanent establishment referred to in clause (b) of Section 3 in the income sent abroad by the foreign permanent establishment of a non-resident person situated in Nepal.

(4) The income sent abroad in any income year by the foreign permanent establishment of a non-resident person situated in Nepal shall be equal to the amount of dividends distributed by that foreign permanent establishment in that year.

69. Controlled foreign entities: (1) If any entity distributes dividends of the associated income earned in any income year as a controlled foreign entity at the end of the income year, it shall be deemed to have distributed dividends on proportion to its beneficiaries, as follows:

(a) As per the rights of the beneficiaries to the income in distributing dividends, or

(b) If the rights are not certain in a reasonable manner, as per the method which the Department thinks proper according to the circumstance.

(2) Tax shall not be levied on the dividends distributed by an entity as a controlled foreign entity at the end of any income year except those distributed pursuant to sub-section (1).

(3) The following shall be deemed to have occurred in respect of the dividends distributed by a controlled foreign entity pursuant to sub-section (1) to the beneficiaries associated with that entity at the time of distribution of dividends:

- (a) Having the characteristic equivalent to the type and source of the associate income of that entity, and
- (b) Having distributed proportionately out of each type and source the associate income of that entity.

(4) Any tax paid by any controlled foreign entity including that deemed to be paid pursuant to sub-section (5), or sub-section (5) of Section 52 in respect of the amounts deemed to be distributed pursuant to sub-section (3) has to be set aside for the beneficiary associated with that entity.

(5) The tax set aside pursuant to sub-section (4) at the time of allocation shall be deemed to have been paid by the beneficiary, and the beneficiary may get facility of tax adjustment for such tax, as provided for in Section 71.

(6) The amount to be deemed as distributed to the beneficiary pursuant to sub-section (1) at the time of distribution has to be included in the expenses for any property or liability of the recipient beneficiary in the entity making such distribution.

(7) The dividends distributed to the beneficiary enjoying tax exemption pursuant to sub-section (2) at the time of distribution has to be included in the income for any property or liability of the

recipient beneficiary as an interest in the entity making such distribution.

(8) For purposes of this Act, the foreign income tax paid or foreign income tax deemed as paid by any controlled foreign entity pursuant to sub-section (5), or sub-section (5) of Section 52 shall be deemed as tax amount paid by that entity or deemed to be paid by that entity pursuant to this Act.

Explanation: For purposes of this Section, -

(a) "Associated income" means, in computing taxable income of any controlled foreign entity in any income year, a taxable income computed as if that entity were a resident entity.

(b) "Controlled foreign entity" means any non-resident entity in which any resident person has interest directly or indirectly through one or more interposed non-resident entities in any income year; and where that person is associated with that entity or where any person deemed to be associated with and any other resident persons not exceeding four persons are associated with that entity, it includes such entity, as well.

70. Tax chargeable on non-resident person providing water traveling/rafting, air transport or telecommunications service in Nepal: (1) The taxable income of any non-resident person who operates water traveling/rafting, charter service or air transport in any income year shall consist of the amounts derived from the

following acts except the amounts derived from transshipment in that year:

- (a) Carriage of passengers departing from Nepal, or
- (b) Carriage of the mail, animals or goods dispatched from Nepal.

(2) The taxable income of any non-resident person who carries on a business of cable, radio, optical fiber or satellite communication in any income year shall consist of the amounts derived from the dispatch of news or information through any device established in Nepal, whether originated in Nepal or not.

(3) Tax shall be levied on the amounts to be included in the taxable income of any non-resident person pursuant to sub-section (1) or (2), at the rate specified in sub-section (7) of Section 2 of Schedule-1.

Provided that-

- (a) Those amounts need not to be computed in computing the tax payable in respect of any due taxable income of that person,
- (b) The expenses related with computation of those amounts shall not be allowed to be deducted in computing that due taxable income, and
- (c) That person shall not be entitled to any facility of tax adjustment from the amount of tax payable by that person.

Explanation: For purposes of this Section, "non-resident person" means a resident entity within the group of associated entities with head offices outside Nepal.

71. Foreign tax adjustment:(1) Any resident person may claim for adjustment of tax for the foreign income tax paid by that person in any income year to the extent of the tax paid for assessable foreign income of that person in that year.

(2) When computing the foreign tax adjustment claimed pursuant to sub-section (1), it shall be done as follows:

- (a) Separate computation has to be done for assessable foreign income having source in each country, and
- (b) Foreign tax adjustment claim shall not be made, in respect of the assessable foreign income, at the rate of tax higher than the average rate of tax of Nepal payable by that person in that year in respect of each computation.

(3) Any foreign income tax paid in respect of the assessable foreign income of any year who is not entitled to foreign tax adjustment facility pursuant to sub-section (1) by virtue of the limit provided for in clause (b) of sub-section (2) may be dealt with as follows:

- (a) It may be carried forward in the coming year, and
- (b) It shall be deemed to be paid in respect of the assessable foreign income in the future income year of the person

having source in the country where such foreign income has been earned.

(4) Notwithstanding anything contained in sub-section (1), any person may give up a claim for foreign tax adjustment to which he is entitled in any income year and also claim for credit for foreign income tax for which such adjustment facility is available in that year.

Explanation: For purposes of this Section, -

(a) "Assessable foreign income" means the following income to be included in the assessable income earned by any resident person in any income year from any employment, business or investment:

(1) Income earned from a foreign source, or

(2) Income of a non-resident person deemed as distributed to that resident person under Section 69 irrespective of the source.

<sup>191</sup>(b) "Average rate of tax of Nepal" means the rate resulted from division of tax amount to be paid by the person referred to in clause (a) of Section 3 in any income year, prior to adjustment of any foreign tax of that person in that year, by his or her taxable income of that year and multiplication by one hundred.

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<sup>191</sup> Amended by the Financial Act, 2075 (2018).

## Chapter-14

### Tax Administration and Authentic Documents

72. Department:(1) The Department shall be responsible for the implementation and administration of this Act.

<sup>192</sup>(2) The Government of Nepal may, by a notification in the Nepal Gazette, establish large taxpayer office, medium level taxpayer office, inland revenue office or taxpayer service offices under the Department and prescribe their working areas, in order to render assistance in fulfilling the responsibility of the Department mentioned in sub-section (1). The offices of which working areas have been so specified shall be deemed as organs of the Department.

(3) The Department may have the officers and other employees as follows:

- (a) Director General,
- (b) Deputy Director General, Chief Tax Administrator, Director, Chief Tax Officer, Tax Officer and other officer in the required number, and
- (c) Other employees.

(4) The Director General may carry out the following functions, subject to the direction given by the Government of Nepal:

- (a) To exercise any of the powers conferred on the Department pursuant to this Act,

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<sup>192</sup> Amended by the Financial Act, 2075 (2018).

- (b) To so delegate the powers referred to in clause (a) as to be exercisable by any other officer subject to sub-sections (5) and (6),
- (c) To so specify that all or any of the powers referred to in clause (a), except the power to issue public circular pursuant to Section 75, to specify the document referred to in Section 77, to hold any reviewable decision or otherwise affect it pursuant to sub-section (5) of Section 115, to accept or reject, fully or partly, the matters contained in an application made by any person pursuant to sub-section (7) of Section 115, to make addition by adding offence pursuant to Section 129 or to grant authority to any officer pursuant to Section 82, to be exercisable by any officer employee of the civil Service.

(5) Deputy Director General, Chief Tax Administrator, Director, Chief Tax Officer and Tax Officer who acts as the Chief of Office may carry out the following functions, subject to the direction given by the Government of Nepal or the Director General:

- (a) To exercise the powers conferred on the Department pursuant to this Act, other than the power to issue public circular pursuant to Section 75, to specify the document referred to in Section 77, to hold any reviewable decision or otherwise affect it pursuant to sub-section (5) of Section 115, to accept or reject, fully or partly, the matters contained in an application made by any person

pursuant to sub-section (7) of Section 115, to make addition by adding offence pursuant to Section 129, and

- (b) To so delegate such powers as to be exercisable by any other officer of the Department subject to sub-section (6).

(6) Any other officer of the department except the Director General, Deputy Director General, Chief Tax Administrator, Director, Chief Tax Officer or Tax Officer who acts as the Chief of Office may carry out the following functions:

- (a) To exercise any powers delegated to that officer out of the powers conferred on the department, except the following powers:

- (1) To issue public circular pursuant to Section 75, to specify the document referred to in Section 77, to hold any reviewable decision or otherwise affect it pursuant to sub-section (5) of Section 115, to accept or reject, fully or partly, the matters contained in an application made by any person pursuant to sub-section (7) of Section 115, to make addition by adding offence pursuant to Section 129, or

- (2) To grant authorization to any officer pursuant to Section 82 or issue a notice pursuant to Section 109.

- (b) He shall not be entitled to re-delegate any power delegated to him.

73. International agreements: (1) If any income of any person is taxable pursuant to this Act or the laws in force and the same income is also taxable in a foreign country, the Government of Nepal may conclude an international agreement with the foreign country for the avoidance of double taxation.

(2) This sub-section shall be applicable if, pursuant to any international agreement concluded with Nepal, the competent authority of the other country requests the Department to collect in Nepal the amount payable by any person who is in arrears of that amount, pursuant to the taxation law of that other country.

(3) If sub-section (2) is applicable, the Department may, for the purpose of sending that amount to that competent authority, send a notice in writing to the person who is in arrears of tax and require him to pay such amount to the Department within the date mentioned in that notice.

(4) This sub-section shall be applicable if any international agreement contains a provision under which Nepal has to exempt income or payment or has to apply the reduced tax rate to income or payment.

(5) If sub-section (4) is applicable, any of the following entity shall not be entitled to enjoy tax exemption or tax deduction facility:

(a) An entity who is considered as a resident of the other party of the agreement for purposes of the agreement, and

- (b) Where fifty percent or more portion of the vested ownership of that entity is owned by individuals or by the entities in which any individual has no interest and, for purposes of the agreement, the persons or entities are residents of both Nepal and of the other country party to the agreement.

Explanation: For purposes of this Section, "international agreement" means any treaty or agreement containing the following provisions, concluded with any foreign government and applicable to Nepal:

- (a) To avoid double taxation and prevent fiscal evasion, or
- (b) To render reciprocal administrative assistance in the implementation of tax liability.

74. Taxpayer's rights: <sup>193</sup>(1) The taxpayer shall fulfill the duties referred to this Act.

(2) In the context of paying tax pursuant to this Act, the taxpayer shall have the following rights:

- (a) The right to be treated with honor,
- (b) The right to receive information on tax related matters pursuant to the laws in force,
- (c) The right to have an opportunity to furnish proofs in defense on tax related matters,

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<sup>193</sup> Amended by the Financial Act, 2018.

- (d) The right to appoint a legal practitioner or auditor for defense, and
- (e) The right to have tax related secret matters inviolable except as otherwise mentioned in this Act.

Explanation: For purposes of this Section, "taxpayer" means a person on whom tax is imposed and collected as mentioned in Section 3.

75. Public circular: (1) In order to bring about uniformity in the implementation of this Act and simplify tax administration and give guidelines to the officers of the Department as well as the persons affected by this Act, the Department may issue written public circulars, accompanied by explanations, on the provisions made in this Act.

(2) <sup>194</sup>The Department may publish and transmit the circular issued pursuant to sub-section (1) in the website of the Department or a newspaper of national level or other electronic means for the information of the public...

(3) The Department shall be compelled to take action according to the circular issued pursuant to sub-section (1) unless and until such circular is revoked.

76. Advance ruling: (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act to any arrangement proposed or accepted by

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<sup>194</sup> Amended by the Financial Act, 2021.

such person, the Department may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in sub-section (1) on any matter of confusion occurred in the implementation of this Act if such matter is *sub judice* in the court or has already been decided by the court.

(3) If any person acts as follows prior to the issuance of an advance ruling pursuant to sub-section (1), the Department shall be compelled to implement this Act as per that ruling until the ruling issued to that person remains valid:

- (a) If the full and actual statements of the matter related to that ruling are presented to the Department, and
- (b) If the arrangement corresponds to the point mentioned in the application made by that person for the ruling.

(4) If the public circular issued pursuant to Section 75 and the advance ruling issued pursuant to sub-section (1) are mutually contradictory, priority shall be given to the matters mentioned in the advance ruling in the case of the person to whom such ruling has been issued.

(5) Prior to the issuance of the advance ruling pursuant to sub-section (1), the Department may give an opportunity to the applicant to furnish further statements, if any, in person or through his representative.

77. Format of documents: (1) The Department may, from time to time, so specify the mode of submission and formats of necessary documents, statements including income returns, tax deduction statements and formats of records that are required under this Act and the rules framed under this Act, the notices, information and details required for the effective implementation of this Act are incorporated.

(2) The Department shall make available the formats referred to in sub-section (1) in the Department and in any other places specified by the Department and through any other means.

<sup>195</sup>(3) The Department may so prescribe that information or return or documents to be submitted by any person to the Department have to be submitted through electronic means.

78. Permanent account number: <sup>196</sup>(1) The Department shall, subject to this Act, issue a permanent account number to any person for the purpose of identifying that person.

Provided that the entity may provide such permanent account number upon completion of the procedure under this Act upon approval from the Department. The taxpayer receiving the permanent account number issued as such cannot operate transaction of import, export till the period as prescribed by the Department.

(2) The Department may order any person to mention his or her permanent account number in any income return, statement, version or other document to be used for purposes of this Act.

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<sup>195</sup> Inserted by the Financial Act, 2018.

<sup>196</sup> Amended by the Financial Act, 2018.

<sup>197</sup>(3) The Department may specify the circumstances where any person has to show or mention his or permanent account number.

<sup>198</sup>(4) Notwithstanding anything contained in sub-section (1), the person referred to in sub-section (3) shall obtain a permanent account number prior to making any transaction.

<sup>199</sup>(4a) A person making transactions by obtaining a permanent account number pursuant to sub-section (4) shall update such details of registration as specified by the Department in the biometric system within the prescribed period.

<sup>200</sup>(5) Notwithstanding anything contained in sub-section (1), (2), (3) or (4), no person shall be free from tax obligation for the reason that he has not obtained a permanent account number.

<sup>201</sup>78A. Suspension of permanent account number: (1) The Department may suspend the permanent account number in any of the following cases:-

- (a) if transaction is left,
- (b) in the case of an entity, if it is closed, sold or transferred or such entity ceases to exist by any other reason,
- (c) in the case of an individual ownership, if such owner dies,
- (d) in the case of registration by mistake.

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<sup>197</sup> Amended by the Financial Act, 2018.

<sup>198</sup> Inserted by the Financial Act, 2018.

<sup>199</sup> Inserted by the Financial Act, 2019.

<sup>200</sup> Inserted by the Financial Act, 2018.

<sup>201</sup> Inserted by the Financial Act, 2020.

(2) The procedure for the suspension of the permanent account number shall be as prescribed.

79. Service of documents: (1) Any document required to be given or delivered to any person pursuant to this Act shall be deemed to have been given or delivered to that person in the following circumstances:

(a) <sup>202</sup>Where it is sent to the fax, email or such other electronic medium of that person,

(b) <sup>203</sup>Where it is delivered by hand to whom it has to be delivered individually or to his or her representative of staff and to the manager or the representative or staff as assigned by him or her of an entity, in the case of the entity, or

(c) Where it is sent by a registered post to his resident, office, business or other address to the extent known.

(2) Any document so signed, encrypted or encoded through computer technology or written in it as indicating the name and designation of the competent authority of the Department and issued, served or given pursuant to this Act shall be deemed to have met requirements.

<sup>204</sup>(3) If a document cannot be served pursuant to sub-sections (1) and (2), information thereof may be given by broadcasting or publishing a notice of the related order by radio, television or in any

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<sup>202</sup> Amended by the Financial Act, 2021.

<sup>203</sup> Replaced by the Financial Act, 2020.

<sup>204</sup> Inserted by the Financial Act, 2019.

newspaper of national circulation, in the name of the concerned person. Information so given shall be deemed to have been received by the concerned person.

80. Defective documents: (1) Any document issued under this Act shall not be deemed defective in the following circumstances:

- (a) Where it is consistent with this Act substantially, and
- (b) Where the person who is addressed in a document is normally indicated in the document.

(2) If any document issued by the Department pursuant to this Act contains any error and the error does not give rise to any dispute as to the interpretation of this Act or the fact of any specific person, the Department may make amendment in the document for purposes of rectifying such error.

## Chapter-15

### Records and Information collection

81. To maintain records or documents:(1) Each person who is liable to pay tax pursuant to this Act has to maintain in Nepali the following necessary documents, in addition to the documents required to be maintained in the format or type as prescribed by the Department or to be certified or authenticated by audit or in other manner:

- (a) Necessary information and documents supporting the income returns or any other documents required to be submitted to the Department pursuant to this Act,
- (b) Documents assisting to assess the tax payable by him,

(c) Documents supporting the deduction of expenses.

(2) Except as otherwise specified by the Department by issuing a notice in writing, the documents referred to in this Section have to be safely retained for <sup>205</sup>..... five years from the date of expiration of the concerned income year.

(3) If any document referred to in sub-section (1) is not in the Nepali or English language, the Department may, by issuing a notice in writing, require the concerned person to submit the translated version of such document in the Nepali language done, at such person's own cost, by a recognized translator under the law in force.

<sup>206</sup>(4) The Department may, upon prescribing the standards and procedures, give approval to any person to issue invoices through electronic means and to keep the documents required to be kept under sub-section (1) through electronic means.

82. Powers of Department to obtain information: (1) The officer of the Department may do the following in order to implement this Act:

(a) To have full or unhindered access to any premises, places, documents or properties situated in Nepal, subject to the laws in force,

(b) To obtain any portion of or duplicate copy of the document including an electronic copy of the documents to which there is an access pursuant to clause (a),

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<sup>205</sup> Removed by the Financial Act, 2018.

<sup>206</sup> Inserted by the Financial Act, 2018.

- (c) If the concerned officer thinks that the document to which there is an access pursuant to clause (a) is an evidence that could be necessary to assess tax liability of any person pursuant to this Act, to take such document in his custody, and
- (d) If any person having access to any document who is requested to provide a duplicate copy of such document does not provide it, and the officer thinks that such document is kept in any property in any form, to take such property in own custody in order to have access to such document.

(2) No officer shall be entitled to exercise the powers referred to in sub-section (1) without having authority in writing from the Department. If, in entering any premise or place in exercise by any officer of the powers referred to in sub-section (1), the possessor of such premise or place or the person having access to any concerned document or property requests to show the authority of the Department, such officer has to show such authority to them.

(3) If any officer of the Department who enters any premise or place in exercise of the powers referred to in sub-section (1) so requests, the possessor of such premise or place or the person having access to any concerned document or property has to provide all proper facilities and assistance for the effective use of the powers.

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(4) The Department may hold in its custody the document or property taken in its custody pursuant to clause (c) or (d) of sub-section (1) until the following time.

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(a) In the case of any document taken in custody pursuant to clause (c) of sub-section (1) until the time the document is required to assess tax liability of any person or for any other action pursuant to this Act, and

(b) In the case of any property taken in custody pursuant to clause (d) of sub-section (1), until the time when access to the document in question is gained and it is taken in custody.

(5) The person whose document is taken in custody pursuant to sub-section (4) may inspect such document and may obtain a copy of or copy down a portion of such document at his own cost within office hours and under supervision as prescribed by the Department.

(6) Notwithstanding any provision made on privilege or public interest in respect of having access to the documents required for the implementation of this Act, the provisions contained in this Section shall apply in that respect.

Explanation: For purposes of this Section, "possessor" means, in respect of any premise or place, a person having ownership of, manager of the premise or place or any other person remaining there.

83. Power to obtain information by notice: (1) The Department may, by giving a notice in writing, order any person with or without liability to pay tax pursuant to this Act to do as follows:

(a) To submit any information specified in the notice within the time specified in the notice, also by preparing any document,

(b) To be present at the Department in the place and time specified in the notice before the officer of the Department for inspection on the tax related matters of that person or any other person,

(c) To submit, for purposes of inspection, any document mentioned in the notice that is under his control at the time when that person is examined pursuant to clause (b).

(2) Any person who is to be examined pursuant to clause (b) of sub-section (1) shall have the right to have legal or other representation during such examination.

(3) Notwithstanding any provision made on any privilege or on public interest in respect of having access to the documents required for the implementation of this Act, the provisions contained in this Section shall apply in that respect.

84. Governmental secrecy: (1) Any officer and other employee of the Department shall maintain secrecy of all documents and information that come to his custody or knowledge in the course of carrying out his duty pursuant to this Act.

(2) Notwithstanding anything contained in sub-section (1), any officer of the Department may disclose, as follows, the document or information referred to in sub-section (1) to the following persons:

- (a) To the extent that it is necessary to carry out the duty of that officer pursuant to this Act,
- (b) If it is so ordered by any court or tribunal in respect of administrative review or action pursuant to this Act,
- (c) Before the Minister for Finance,
- (d) If it is necessary to disclose for purposes of any other financial law,
- (e) If it is necessary for any person in the service of the Government of Nepal for any acts relating to revenue or statistics, before such a person,
- (f) If it is necessary in the course of carrying out the duty, before the Auditor General or any person authorized by the Auditor General, or
- (g) Before the competent authority of the government of any country with which the Government of Nepal has concluded an international agreement, to the extent as provided for in such agreement in that respect.

(3) Any person, court, tribunal, body or official who obtains any document or information pursuant to sub-section (2) shall keep

secret such document or information except to the minimum extent required.

## Chapter-16

### Payment of Tax

85. Time, place and mode of payment of tax: (1) Tax required to be paid under this Act has to be paid in the place and mode as prescribed<sup>207</sup> and the Department may so prescribe that tax to be so paid has to be paid also through electronic means.

(2) Tax required to be paid under this Act has to be paid in the following time, subject to sub-section (1):

- (a) In the case of one who has to pay by withholding advance tax, in the time mentioned in sub-section (4) of Section 90,
- (b) In the case of one who has to pay tax in installments, in the time mentioned in sub-section (1) of Section 94,
- (c) In the case of one who has to pay the assessed tax-
  - (1) On the date when the income return is to be submitted in respect of assessment of tax referred to in Section 99,
  - (2) Within the time limit as specified in the tax assessment notice delivered pursuant to Section 102 in respect of tax assessed pursuant to sub-section (2) of Section 100,

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<sup>207</sup> Inserted by the Financial Act, 2018.

- (3) Within the time limit as specified in the tax assessment notice delivered pursuant to Section 102 in respect of amended tax assessment made pursuant to Section 101,
  - (d) In respect of the amounts required to be paid to the Department as per any notice issued pursuant to sub-section (8) of Section 104, sub-section (1) of Section 109, or sub-section (1) of Section 110, on the date mentioned in the notice,
  - (e) In respect of a liability fixed upon failure of any entity to pay tax pursuant to sub-section (2) of Section 107, at the same time when the entity has to pay tax,
  - (f) In respect of the amounts required pursuant to sub-section (3) or (4) of Section 108, within seven days of the date on which the amounts are adjusted by auction sale gradually or on which the amounts cannot be so adjusted, and
  - (g) In respect of the fees and interest assessed pursuant to Section 122, on the date as mentioned in the assessment notice.
- (3) The date on which tax has to be paid shall not be affected in the following circumstances:
- (a) An action taken by the Department pursuant to Chapter-20 to recover tax, or
  - (b) Other action has commenced, pursuant to this Act.

86. Evidence of payable tax: The certificate signed by the officer of the Department, indicating the name, address of any person and the amount of tax required to be paid by that person shall be an ample evidence for the amount of tax required to be paid by that person, in the following actions:-

- (a) Any action taken by the Department pursuant to Chapter-20 to recover tax, or
- (b) Any action on any offense pursuant to Chapter-23.

#### Chapter-17

#### Withholding on Payment

87. Withholding of tax by employer: (1) When making payment which has source in Nepal and is to be included in computing the income derived by any employee or worker, each resident employer shall deduct (withhold) tax at the rate referred to in Schedule-1.

(2) The liability of an employer required to withhold tax pursuant to sub-section (1) shall not decrease or end by virtue of the following:

- (a) If the employer has the right or duty to deduct or hold up or subtract any other amount from the said payment, or
- (b) If the income earned by the employee or worker from employment cannot be subtracted pursuant to other laws in force.

88. Withholding of tax in making payment for investment return and service charge: (1) When making payment by a resident person for

interest, natural resource, rent, royalty, <sup>208</sup>service charge, commission, sales bonus, retirement payment and other any consideration having source in Nepal, and in making payment of amount of any retirement payment, the person shall withhold tax at the rate of fifteen percent of the total amount of payment.

<sup>209</sup>Provided that tax shall be withheld in the following payment, at the following rate:

- (1) In case of retirement payment from the Government of Nepal or contribution-based retirement payment from the approved retirement fund, at the rate of five percent in benefit computed under clause (b) of sub-section (1) of Section 65,
- (2) In a commission paid by the resident employment company to resident person, at the rate of five percent,
- (3) In payment of amount for lease of aircraft, at the rate of ten percent,
- (4) In service charge paid to service provider resident person registered in value added tax or resident entity operating transaction of exemption of value added tax, at the rate of one and half percent of payment amount,
- (5) Rent payment made by a resident person in a source in Nepal, at the rate of ten percent,

Provided that,

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<sup>208</sup> Amended by the Financial Act, 2018.

<sup>209</sup> Amended by the Financial Act, 2018.

- (a) In an amount payment to a person, registered in valued added tax, operating business of providing vehicles in rent, for a rent of such vehicles, one and half percent shall be withheld from such amount.
- (b) No tax shall be withheld in an amount received by individual for house rent.
- <sup>210</sup>(c) .....
- (6) In an amount payment as a consideration distributed to individual by mutual fund, at the rate of five percent,
- (7) In a payment for use of satellite, bandwidth, optical fiber, tools related to communication or electricity transmission line, at the rate of ten percent,
- <sup>211</sup>(8) In a payment for carriage service or rent payment for carriage service, at the rate of two and half percent,
- <sup>212</sup> .....
- <sup>213</sup>(9) In the payment of the interest for a loan received in foreign currency from the foreign bank <sup>214</sup>or other financial institution by the resident bank and financial institution for investment in the sectors as specified by the Nepal Rastra Bank, at the rate of ten percent,

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<sup>210</sup> Removed by the Financial Act, 2019.

<sup>211</sup> Amended by the Financial Act, 2020.

<sup>212</sup> Removed by the Financial Act, 2021.

<sup>213</sup> Inserted by the Financial Act, 2020.

<sup>214</sup> Amended by the Financial Act, 2021.

<sup>215</sup>(10) Tax shall not be deducted in the motivational amount provided for payment made through payment card, e-money (wallet), mobile banking like electronic payment under prevailing laws in the purchase of goods and service by the consumer,

<sup>216</sup>(11) In payment of the amount for registration charge, study charge and examination charge to the foreign school or university, at the rate of five percent of the paid amount,

<sup>217</sup>(12) In payment of deposit by the resident bank and financial institution to insurance company, at the rate of five percent of interest.

<sup>218</sup>(2) A resident person shall, in making following payment having source in Nepal, withhold tax at the following rate:

- (a) In a dividend payment, at the rate of five percent of paid amount,
- (b) In a benefit payment of investment insurance, at the rate of five percent of paid amount, or
- (c) In a benefit payment from unapproved retirement fund, at the rate of five percent of paid amount

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<sup>215</sup> Inserted by the Financial Act, 2020.

<sup>216</sup> Inserted by the Financial Act, 2021.

<sup>217</sup> Inserted by the Financial Act, 2021.

<sup>218</sup> Amended by the Financial Act, 2018.

(3) Notwithstanding anything contained in sub-section (1), in making payment to any individual of interest or of an amount in the form of interest as follows, in consideration for deposits, bonds, debentures an government bonds, a resident bank, financial institution, cooperative organization or any other body issuing bonds or company enlisted under the prevailing law shall withhold tax at the rate of five percent of the total amount of payment:

- (a) Which has source in Nepal, and
- (b) Which is not related with the operation of business.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), this Section shall not apply to the following payment:

(a) <sup>219</sup>Any payment other than that related to the operation of a business by an individual,

<sup>220</sup>(a1) Payment for a feature, article in a newspaper,

(b) Interest paid to a resident bank or other resident financial institution,

(c) Payment enjoying tax exemption or payment liable to tax withholding pursuant to Section 87,

<sup>221</sup>(d) Inter-regional interchange charge paid to the bank issuing the credit card,

<sup>222</sup>(e) <sup>223</sup>.....

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<sup>219</sup> Amended by the Financial Act, 2018.

<sup>220</sup> Inserted by the Financial Act, 2018.

<sup>221</sup> Inserted by the Financial Act, 2018.

<sup>222</sup> Inserted by the Financial Act, 2018.

<sup>223</sup> Removed by the Financial Act, 2021.

<sup>224</sup>88A. Tax withholding in windfall gain: (1) Tax shall be withheld at the rate of twenty-five percent in making a payment for a windfall gain.

Provided that the Government of Nepal may, by a notification in the Nepal Gazette, provide exemption from levying wind-fall gain tax on national and international award for contribution made to literature, art, culture, sports, journalism, science, technology and public administration.

(2) Notwithstanding anything contained in sub-section (1), no tax shall be levied on national and international award of up to five hundred thousand rupees for contribution made to literature, art, culture, sports, journalism, science, technology and public administration.

89. Tax withholding in making payment of deed or contract: <sup>225</sup>(1) In making payment of a sum exceeding fifty thousand rupees for payment of deed or contract, a resident person shall withhold tax at the rate of one and half percent of the total amount of payment.

(2) The amount referred to in sub-section (1) shall be fixed also by adding any other payments, if any, made by such person or his associated person under the same contract to the person or his associated person entitled to payment under that contract in the past ten days.

(3) Notwithstanding anything contained in sub-section (1), tax shall be withheld as follows from payment made by any resident person to any non-resident person under any contract:

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<sup>224</sup> Inserted by the Financial Act, 2018.

<sup>225</sup> Amended by the Financial Act, 2018.

- (a) <sup>226</sup>For .....<sup>227</sup> deed or contract, five percent,
- (b) <sup>228</sup>For a commission in payment of a premium to a non-resident insurance company or a premium amount received for reinsurance from a non-resident insurance company, one and half percent,
- (c) <sup>229</sup>Where the Department has given that resident person a notice in writing except as referred to in clause (a) or (b), at the rate specified in the notice.

<sup>230</sup>Provided that this Sub- section shall not be applicable in the payment for purchase of arms, ammunition, explosives and communication equipment purchased by Nepal Army, Nepal Police and Armed Police for their purpose.

(3a)<sup>231</sup> Tax shall be withheld at the rate of one and half percent from payment of amount exceeding fifty lakh rupees for a work to be performed by a consumers' committee.

(4) Notwithstanding anything contained in sub-section (1), this Section shall not apply to the following payments:

- (a) <sup>232</sup>Any other payment except rent paid for a land or house having source in Nepal or goods and equipment installed

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<sup>226</sup> Amended by the Financial Act, 2018.

<sup>227</sup> Removed by the Financial Act, 2020.

<sup>228</sup> Amended by the Financial Act, 2018.

<sup>229</sup> Amended by the Financial Act, 2018.

<sup>230</sup> Inserted by the Financial Act, 2021.

<sup>231</sup> Inserted by the Financial Act, 2018.

<sup>232</sup> Amended by the Financial Act, 2018.

in the house to an individual other than that operating a business,

- (b) <sup>233</sup>Payments enjoying tax exemption or payments liable to tax withholding pursuant to Section 87, 88 or 88A.

<sup>234</sup>Explanation: For the purpose of this Section "deed or contract" means a contract or agreement concluded for the supply of any goods or labors or construction, installation or establishment of tangible property or structure and such act as specified to be a deed or contract by the Department, and such contract or agreement also includes payment for the service related to construction, installation or establishment, if such service is also covered by it.

90. Statement and payment of tax withheld: <sup>235</sup>(1)Each person who has to withhold tax has to submit to the Department a statement in such mode and format as specified by the Department within twenty-five days of the expiration of each month.

(2) The person withholding tax shall pay to the Department the amount of tax withheld or deemed to be withheld pursuant to sub-section (3), along with the statement referred to in sub-section (1), within the time-limit referred to in sub-section (1).

(3) Even though the person liable to withhold tax has not withheld tax pursuant to <sup>236</sup>Sections 87, 88, 88A. or 89, the tax shall be deemed to be withheld at the time when it has to be withheld.

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<sup>233</sup> Amended by the Financial Act, 2018.

<sup>234</sup> Inserted by the Financial Act, 2018.

<sup>235</sup> Amended by the Financial Act, 2018.

<sup>236</sup> Amended by the Financial Act, 2018.

(4) The person withholding tax shall pay the amount of tax withheld pursuant to <sup>237</sup>Sections 87, 88, 88A. or 89 or deemed to be withheld pursuant to sub-section (3); and if sub-section (5) is applicable, the person subject to tax withholding shall pay the tax <sup>238</sup>within twenty-five days after the period referred to in sub-section (1).

<sup>239</sup>(4a) Notwithstanding anything contained in sub-section (4)<sup>240</sup>,.....the person paying tax on the basis of transaction pursuant to sub-section (4a) of Section 4 of the Act shall pay the tax withheld under Chapter-17 at the time of payment of the installment tax.

<sup>241</sup>(5) The person subject to withholding tax and the person withholding tax shall be jointly and individually responsible to pay such tax amount to the Department in the following circumstance:

- (a) If the person withholding tax does not withhold tax from any payment pursuant to <sup>242</sup>Section 87, 88, 88A. or 89, and
- (b) If the person withholding tax does not pay to the Department the amount of tax deemed to be withheld pursuant to sub-section (3) within the date on which tax has to be paid pursuant to sub-section (4).

(6) If the person withholding tax withholds tax and pays it to the Department pursuant to <sup>243</sup>Section 87, 88, 88A.or 89 and the

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<sup>237</sup> Amended by the Financial Act, 2018.

<sup>238</sup> Amended by the Financial Act, 2018.

<sup>239</sup> Inserted by the Financial Act, 2018.

<sup>240</sup> Removed by the Financial Act, 2019.

<sup>241</sup> Amended by the Financial Act, 2018.

<sup>242</sup> Amended by the Financial Act, 2018.

<sup>243</sup> Amended by the Financial Act, 2018.

person subject to tax withholding makes any claim as to that payment subject to tax withholding, that amount shall be treated as if it were paid to the person subject to tax withholding.

(7) If the person withholding tax pays to the Department the amount of tax not withheld pursuant to <sup>244</sup>Section 87, 88, 88A. or 89, he or she may recover the amount equal to the amount of tax so paid from the person subject to tax withholding.

<sup>245</sup>(8) If the Department believes that any person has not submitted a return or paid tax required to be submitted or paid under sub-section (1) or (2) or there exists the circumstance referred to in sub-section (5) in the case of any person, it may issue an order to pay the amount not paid or the amount paid less and the interest referred to in Section 119 <sup>246</sup>and charge referred to in Section 120 if advance tax is not deducted in the payment subject to the advance tax deduction.

Provided that, prior to issuing such an order, a written notice setting out an appropriate reason, shall be given to submit evidence in defense in respect of such order, within the time-limit of fifteen days.

91. Tax withholding certificate: (1) The person withholding tax shall provide the tax withholding certificate, as follows, to the person subject to tax withholding at the time specified in sub-section (2):

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<sup>244</sup> Amended by the Financial Act, 2018.

<sup>245</sup> Inserted by the Financial Act, 2018.

<sup>246</sup> Inserted by the Financial Act, 2020.

- (a) Having been certified in accordance with the manner, if any, as prescribed by the Department,
- (b) Setting out the amount of tax withheld pursuant to <sup>247</sup>Section 87, 88, 88A. or 89 and the paid amounts.

(2) The tax withholding certificate setting out the period of tax withholding has to be provided <sup>248</sup>within twenty-five days from the date of expiration of the month in which tax is withheld.

(3) Notwithstanding anything contained in sub-section (1), if tax is withheld pursuant to Section 87, the tax withholding certificate has to be provided as follows:

- (a) The certificate shall be valid only for the period when the employee continues to serve in that income year.
- (b) The certificate has to be provided within thirty days from the expiration of that year or if the employee leaves employment in the person withholding the tax in that year, it has to be provided within thirty days from the date of his leaving employment.

92. Payment from which tax is withheld finally: (1) The following payments shall be treated as payments from which tax is withheld finally:

- (a) Dividend paid by a resident <sup>249</sup>company or partnership firm,

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<sup>247</sup> Amended by the Financial Act, 2018.

<sup>248</sup> Amended by the Financial Act, 2018.

<sup>249</sup> Amended by the Financial Act, 2018.

- (b) Rent paid for the land or building and fixtures and equipment appurtenant thereto having source in Nepal to other individual except one who is carrying on business,
- (c) <sup>250</sup>Profit paid by a resident person for investment insurance,
- (d) Profit paid by a resident person for the interest of an unapproved retirement fund,
- (e) <sup>251</sup>Following interest paid by a bank, financial institution or other entity issuing bonds (debentures) or company enlisted under prevailing law or cooperative organization mentioned in sub-section (3) of Section 88:
  - (1) Payment made to an individual not having source in Nepal and not related to operation of business,
  - (2) Payment made to the organization entitled to enjoy exemption pursuant to clause (o) of Section 2.
- (f) Payment subject to tax withholding made to a non-resident person pursuant to <sup>252</sup>Section 87, 88, 88A. or 89.
- (g) <sup>253</sup>All kinds of retirement payment, including that paid by the Government of Nepal or approved retirement fund or unapproved retirement fund (except regularly paid pension),

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<sup>250</sup> Amended by the Financial Act, 2018.

<sup>251</sup> Amended by the Financial Act, 2018.

<sup>252</sup> Amended by the Financial Act, 2018.

<sup>253</sup> Inserted by the Financial Act, 2018.

- (h) <sup>254</sup>Meeting allowance up to twenty thousand rupees per meeting, payment for teaching every time, making question paper or examining answer sheets,
- (i) <sup>255</sup>Payment for a windfall gain,
- (j) <sup>256</sup>Amount of consideration to be distributed to individuals from a mutual fund,
- (k) <sup>257</sup>Payment for rent of a motor vehicle or carrier vehicle or carriage service of an individual except a private firm.

(2) If the person withholding tax or the person subject to tax withholding pays to the Department the amount of tax withheld from the payment from which tax is withheld finally pursuant to <sup>258</sup>Section 87, 88, 88A. or 89 or the amount of tax deemed to have been withheld pursuant to sub-section (3) of Section 90, the person referred to in clause (c) of Section 3 shall be deemed to have fulfilled the tax liability.

93. Adjustment facility and inclusion of tax not to be withheld finally:

(1) If any tax is withheld from any payment for purposes of computing the amount of such payment, such tax-withheld amount shall be treated as a portion of that payment.

(2) If any tax is withheld from any payment except the payment from which tax is withheld finally, the person subject to tax

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<sup>254</sup> Inserted by the Financial Act, 2018.

<sup>255</sup> Inserted by the Financial Act, 2018.

<sup>256</sup> Inserted by the Financial Act, 2018.

<sup>257</sup> Amended by the Financial Act, 2021.

<sup>258</sup> Amended by the Financial Act, 2018.

withholding shall be deemed to have paid the amount of tax as follows:

- (a) The amount of tax withheld from payment pursuant to Section 87, 88 or 89,
- (b) If the person withholding tax or the person subject to tax withholding pays to the Department the amount of tax referred to in sub-section (3) of Section 90 or the amount of tax deemed to have been withheld from payment, such amount.

(3) The person subject to tax withholding may make a claim for adjustment of the amount referred to in sub-section (2) only to the amount of tax payable in the income year in which that payment is made.

## Chapter-18

### Installment and <sup>259</sup>Advance Tax

94. Payment of tax in installment: <sup>260</sup>(1) A person who has or will have assessable income in any income year from any business or investment has to pay tax in three installments as follows:

Date on which payment is to be made	Amount to be paid
By the end of Poush (mid-January)	Amount to be paid from forty percent of the estimated tax amount

<sup>259</sup> Inserted by the Financial Act, 2018.

<sup>260</sup> Amended by the Financial Act, 2018.

By the end of Chaitra (mid-April)	Amount to be paid from seventy percent of the estimated tax amount
By the end of Ashad (mid-July)	Amount due to be paid from hundred percent of the estimated tax amount

Explanation: For purposes of this sub-section, -

- (a) "Estimated tax" means the estimated tax in installment computed by any person liable to pay tax in installment pursuant to Section 95 at the time when the installment tax is to be paid in any year.
- (b) "Tax to be paid" means the insufficient amount resulted from subtraction of the following sum from the amount as specified under percent to deposit in installments of the estimated amount in this sub-section:
- (1) The amount of tax deposited in that income year by a prior installment before the date on which the installment in question is to be paid,
  - (2) The amount of tax withheld from the payments to be included in computing the income of any person in any income year pursuant to Chapter-17 before the date on which the installment in question is to be paid in that year,
  - (3) If the agent withholding tax or the person subject to tax withholding pays to the Department the amount of tax deemed to be withheld from the payment referred to in clause (2) pursuant to sub-section (3) of Section 90 in that

year before the date on which the installment is to be paid, such amount of tax, and

(4) The amount of tax adjustment for medical treatment expenses which that person may claim pursuant to Section 51 in respect of the accepted medical treatment expenses incurred by that person before the date on which the installment is to be paid.

(1a)<sup>261</sup> The person paying tax on the basis of transaction shall pay tax in two installments as follows:

Date on which payment is to be made	Amount of tax to be paid
By the end of Poush (mid-January)	Tax at the prescribed rate on the transaction up to 20 Poush (4 January)
By the end of Ashad (mid- July)	Tax amount to be set by subtracting the tax paid within the last day of Poush (mid-January) from the amount of tax calculated as per the prescribed rate upon estimating the transaction that would be carried on by the end of Ashad (mid-July) on the basis of real transaction up to 20 Ashad (4 July).

<sup>262</sup>(2) Notwithstanding anything contained in sub-section (1), if the amount of installments to be paid pursuant to that sub-section

<sup>261</sup> Inserted by the Financial Act, 2018.

<sup>262</sup> Amended by the Financial Act, 2018.

is less <sup>263</sup>than seven thousand five hundred rupees, amount of such installment need not to be paid.

(3) The person paying installment shall be allowed to deduct the amount of tax paid by way of installment in any year pursuant to this Section for the tax chargeable in that year.

95. Return of estimated tax to be paid: (1) Each person who has to pay installment in any income year has to submit to the Department a return, in such format and manner as may be prescribed by <sup>264</sup>the Department, setting out the estimates of the following amounts of that person for that year within the date on which the first installment of tax is to be paid in that year pursuant to Section 94:

- (a) Assessable income that could be earned by that person from each source of employment, business and investment in that year and source of such income,
- (b) Taxable income of that person that could be earned in that year and the amount of tax to be paid by the person referred to in clause (a) of Section 3, which is computed pursuant to Section 4 without subtracting the amount of tax adjustment for medical treatment expenses,
- (c) In respect of a non-resident person's foreign permanent establishment situated in Nepal, the amount of income sent abroad by such foreign establishment in that year and the amount of tax to be paid by the person referred to in

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<sup>263</sup> Amended by the Financial Act, 2019.

<sup>264</sup> Inserted by the Financial Act, 2018.

clause (b) of Section 3, which has been computed in that income pursuant to sub-section (5) of Section 4, and

(d) Any other details specified by the Department.

(2) The sum total of the amount of tax mentioned in clauses (b) and (c) of sub-section (1) shall be the estimated tax payable by the person referred to in sub-section (1) in that income year.

(3) In computing the foreign tax adjustment amount to be claimed pursuant to Section 71 in order to make an estimation of the tax to be paid in any income year pursuant to clause (b) of sub-section (1), only the foreign tax paid by any person in that year or the foreign income tax estimated by him as payable in that year has to be computed.

(4) Unless and until any person paying installment of tax submits to the department the amended estimate setting out the necessary information and the reasons for amendment in the format referred to in sub-section (1), the estimate made by him pursuant to that sub-section shall remain valid throughout the income year.

(5) Notwithstanding anything contained in subsection (2), the amended estimate submitted by any person pursuant to sub-section (4) shall be applicable only in computing the installment of tax to be paid pursuant to Section 94 in that income year after the date of its submission to the Department.

(6) Notwithstanding anything contained in sub-sections (1) and (5), the Department may so specify that any person or class who

has to pay installment of tax is not required to submit an estimate pursuant to sub-section (1).

(7) Notwithstanding anything contained in sub-section (2), if any person who has to pay installment of tax does not submit an estimate in any income year pursuant to sub-section (1) or where the Department is not satisfied with the submitted estimate or amended estimate<sup>265</sup> ..... the Department may do as follows:

(a) The person referred to in clause (a) or (b) of Section 3 may make an estimate of the estimated tax to be paid by him in that year on the basis of the tax required to be paid by him in the last income year, and

(b) If the Department is not satisfied with the estimate prepared pursuant to clause (a), the method used to prepare the estimate and the estimate submitted by the person, the Department shall give a notice in writing setting out the reasons therefor to the person who has to pay installment.

(8) If the Department gives a notice to the person who has to pay installment pursuant to sub-section (7), the amount of estimated tax to be paid by that person in that year shall be the amount estimated by the Department.

95A.<sup>266</sup> To collect advance tax: (1) The entity operating commodity future market service shall collect advance tax at the rate of ten percent on

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<sup>265</sup>Removed by the Financial Act, 2018.

<sup>266</sup> Inserted by the Financial Act, 2018.

the profit and benefit acquired by the person doing trade under commodity future market from such business.

(2) If any person other than a resident entity doing transaction on sale and purchase of securities being registered under the prevailing law derives benefits from the disposal of interest in any resident entity, advance tax shall be collected on such benefit computed pursuant to Section 37, as follows:

- (a) <sup>267</sup>In the case of benefit acquired from the disposal of interest of an entity enlisted in the Securities Board Of Nepal, at the rate of five percent of the profit amount having ownership over for more than three hundred sixty five days, seven and half percent for having ownership over for less than three hundred sixty five days for a resident individual, ten percent of the profit for a resident entity and twenty-five percent of the profit for others, by the entity working for securities exchange market,
- (b) In the case of benefit acquired from the disposal of interest of an entity not listed in the Securities Board of Nepal, at the rate of ten percent of the profit for a resident individual, fifteen percent of the profit for a resident entity and twenty-five percent of the profit for others, by the entity whose interest has been disposed.

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<sup>267</sup> Amended by the Financial Act, 2021.

<sup>268</sup>(2a) In computing benefit pursuant to clause (a) of sub-section (2), it shall be computed on the basis of weightage average cost of the interest owned by that person in the entity of which interest is to be disposed on that date.

(3) While recording the share by the Company Registrar's Office upon disposal of interest pursuant to clause (b) of sub-section (2), it shall record only after the submission of evidence of payment of advance tax in profit amount.

(4) <sup>269</sup>.....

(5) The Land Revenue Office shall collect advance tax as follows at the time of registration on capital gain earned from the disposal of land or private building of any individual:

- (a) If the disposed non-business taxable asset (land and building) has the ownership of five years or more, at the rate of two and half percent,
- (b) If the disposed non-business taxable asset (land and building) has the ownership of less than five years, at the rate of five percent.

<sup>270</sup>(6) If, except as mentioned in sub-section (5), a land or building owned by any other person is disposed, the Land Revenue Office shall withhold tax at the rate of one and half percent of the price of disposal at the time of registration.

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<sup>268</sup> Inserted by the Financial Act, 2019.

<sup>269</sup> Removed by the Financial Act, 2021.

<sup>270</sup> Amended by the Financial Act, 2019.

<sup>271</sup>(6a) The resident bank or financial institution providing facility of foreign currency exchange to the students going abroad for study for fees of language examination or aptitude examination, it shall collect advance tax at the rate of fifteen percent at the time of providing such service of exchange for fee of such examinations.

<sup>272</sup>(6b) Any individual resident not involved in the operation of business receiving payment in foreign currency for providing software or similar kind of other electronic service outside Nepal, the concerned bank, financial institution or money transfer institution shall collect advance tax at the rate of one percent of the amount received at the time of payment of such amount.

<sup>273</sup>(6c) Any individual resident not involved in the operation of business receiving payment in foreign currency for providing consultancy service outside Nepal, the concerned bank, financial institution or money transfer institution shall collect advance tax at the rate of one percent of the amount received at the time of payment of such amount.

<sup>274</sup>(6d) Any individual resident not involved in the operation of business receiving payment in foreign currency for uploading audio- visual material in social network, the concerned bank, financial institution or money transfer institution shall collect advance tax at the rate of one percent of the amount received at the time of payment of such amount.

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<sup>271</sup> Inserted by the Financial Act, 2020.

<sup>272</sup> Inserted by the Financial Act, 2021.

<sup>273</sup> Inserted by the Financial Act, 2021.

<sup>274</sup> Inserted by the Financial Act, 2021.

(7) Tax shall be withheld at the customs point at the rate of five percent for any such ox, buffalo, goat, sheep, mountain goat under Chapter 1 of the Custom Classification, live, fresh and frozen fish under Chapter 3, such fresh flowers under Chapter 6, such fresh vegetables, potato, onion, <sup>275</sup>dry vegetables, garlic, baby corn under Chapter 7 and such fresh fruits under Chapter 8 <sup>276</sup>and two and half percent for such meat under Chapter 2, such milk products, eggs, honey under Chapter 4, such barley, millet, sorghum (*Junelo*), rice, beaten rice under Chapter 10, such refined wheat flour, wheat flour under Chapter 11, such herbal medicines, sugarcane under Chapter 12 and such vegetation products under Chapter 14 as are imported for business purpose.

(8) Even though the person or entity responsible for collection of advance tax pursuant to sub-sections (1), (2), (5) and (6) does not collect it, the tax shall be deemed to have been collected at the time required for such collection.

(9) The person paying the advance tax shall submit the details in the mode and format as prescribed by the Department within twenty-five days of expiration of each month.

(10) The amount collected as advance tax or amount considered as collected under <sup>277</sup>sub-section (8) shall be paid to the

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<sup>275</sup> Inserted by the Financial Act, 2019.

<sup>276</sup> Inserted by the Financial Act, 2019.

<sup>277</sup> Amended by the Financial Act, 2019.

Department within the time limit as mentioned in the same Section along with the details mentioned in <sup>278</sup>sub-section (9).

(11) The person responsible to deposit advance tax and the person responsible to collect tax shall be, jointly and individually, responsible for depositing such amount in the Department in the following circumstances:

- (a) If the person required to collect advance tax does not collect the tax, and
- (b) If the person required to collect advance tax does not deposit amount collected under <sup>279</sup>sub-section (8) in the Department pursuant to <sup>280</sup>sub-section (10).

(12) The person required to deposit advance tax under <sup>281</sup>sub-section (11) shall deposit such tax within twenty-five days of expiration of the date mentioned in <sup>282</sup>sub-section (9).

(13) If the person required to deposit advance tax has deposited advance tax in the Department pursuant to <sup>283</sup>sub-section (10) without collecting the advance tax, the amount equal to such deposited tax, he or she shall collect recover such amount from the person required to deposit such tax.

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<sup>278</sup> Amended by the Financial Act, 2019.

<sup>279</sup> Amended by the Financial Act, 2019.

<sup>280</sup> Amended by the Financial Act, 2019.

<sup>281</sup> Amended by the Financial Act, 2019.

<sup>282</sup> Amended by the Financial Act, 2019.

<sup>283</sup> Amended by the Financial Act, 2019.

(14) The person required to deposit tax shall be allowed to deduct the advance tax deposited pursuant to this Section from annual tax liability.

## Chapter-19

### Income Return and Assessment of Tax

96. Income return: (1) Each person shall, within three months of expiration of an income year, and subject to Sections 97, 98 and 100, submit an income return of that year in the place as specified by the Department.

(2) The income return referred to in sub-section (1) shall be as follows:

(a) It has to be prepared in the manner and format as specified by the Department, setting out the following matters:

- (1) Assessable income earned by that person from each employment, business or investment in that year and source of such income,
- (2) Taxable income of that person in that year and the tax to be imposed on the person referred to in clause (a) of Section 3 in respect of that income,
- (3) Income sent abroad in that income year by a non-resident person's foreign permanent establishment situated in Nepal, and the tax imposable in that income,

- (4) <sup>284</sup> .....
- (5) <sup>285</sup> .....
- (6) Such other information and details as specified by the Department.

(b) The income return has to be signed by that person or manager, covenanting that it is true and complete, and

(c) The income return has to be accompanied by the following matters:

- (1) <sup>286</sup> .....
- (2) Any details made available to that person pursuant to sub-section (4),
- (3) <sup>287</sup> .....
- (4) Such other information and details as specified by the Department.

(3) If any person, except in capacity of an employee, prepares or assists in preparing the income return of any other person or the documents or details to be accompanied with the income return in lieu of any payment, such a person has to certify the following matters:

(a) Having examined the documents maintained by other person pursuant to Section 81, and

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<sup>284</sup> Removed by the Financial Act, 2018.

<sup>285</sup> Removed by the Financial Act, 2018.

<sup>286</sup> Removed by the Financial Act, 2018.

<sup>287</sup> Removed by the Financial Act, 2021.

(b) Having the circumstances in question been actually reflected from the details or information.

(4) If the person required to certify the return pursuant to sub-section (3) refuses to certify, information, setting out the reasons for such refusal, has to be given to the person whose income return is to be certified.

(5) The Department may, in the following circumstances, require any person to submit the income return of an income year or any part of the income year within the time-limit mentioned in the written notice given by it to such person subject to Section 100 prior to the due time-limit for submission of the income return of the income year pursuant to sub-section (1):

(a) If that person becomes bankrupt, insolvent or is dissolved,

(b) If that person is to leave Nepal for an uncertain period of time,

(c) If that person is leaving the act being carried out by him in Nepal, or

(d) If the Department otherwise thinks it proper.

<sup>288</sup>(6) If any person wishes to amend his or her income return submitted to the Department within the time-limit for its being otherwise, that person may amend the income return within thirty days of the date of its submission in accordance with the process specified by the Department.

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<sup>288</sup> Inserted by the Financial Act, 2019.

<sup>289</sup>97. Submission of income return not required: (1) Except where the Department issues a written order or gives an order, any of the following persons shall not be required to submit the income return of any income year pursuant to Section 96:

- (a) Out of the persons mentioned in clause (a) of Section 3, any person who is not required to pay tax in that income year,
- (b) Any person mentioned in clause (c) of Section 3 in that income year,
- (c) Any resident individual to which sub-section (3) of Section 4 applies in that income year,
- (d) If the owner of a motor vehicle depositing tax pursuant to sub-section (13) of Section 1 of Schedule-1 is an individual except a sole proprietorship firm, such an individual,
- (e) An individual not willing to submit income return having income only from the disposal of non-business taxable property.

(2) Notwithstanding anything contained in sub-section (1), an individual having income of more than forty lakh rupees in any income year shall submit the income return pursuant to Section 96.

(3) The individual required to submit the return pursuant to sub-section (2) shall include in it the income gained from business exemption benefit referred to in clause (d) of Section 5, sub-section

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<sup>289</sup> Amended by the Financial Act, 2018.

(3) of Section 7, clause (a) of sub-section (3) of Section 8, clause (a) of sub-section (3) of Section 9 and Section 11, in addition to the income required to be included.

Provided that it shall not be mandatory to include a meeting allowance and interest in income.

(4) The income referred to in clause (c) of Section 3 and income from tax exemption under Section 11 of the Act shall be deducted from the income set pursuant to sub-section (3).

Provided that it need not be deducted where a meeting allowance and interest income have not been included.

(5) The format of the income returns to be submitted pursuant to sub-section (2) shall be as specified by the Inland Revenue Department.

98. Extension of time-limit for submission of income return: (1) If any person who has to submit an income return pursuant to Section 96 makes an application in writing, within the time limit for the submission of such return, to the Department for the extension of the time-limit, the Department may extend the time-limit for submission of the income return if the reason is reasonable. Information of the decision made by the Department on the application so made for the extension of time-limit has to be given in writing to the applicant.

(2) The Department may extend, at one time or several times, the time-limit for a period not exceeding three months to submit the income return pursuant to sub-section (1).

99. Assessment of tax: (1) If any person has submitted the income return of any income year, setting out the following amounts, on the date of submission of the return, the tax of the income return shall be deemed as if it were assessed:
- (a) The amount of tax mentioned in the income return and payable by the person mentioned in clauses (a) and (b) of Section 3 in that income year, and
  - (b) The amount of tax mentioned in the income rerun and due and payable in that year.
- (2) If any person does not submit the income return of any income year, tax shall be deemed to have been assessed as follows on the due date for submission of the tax return until the tax return is submitted:
- (a) The amount of tax payable by that person in that year shall be equal to the sum of the amount of tax deducted from the amount received pursuant to Chppter-17 and the amount paid in installment for that year pursuant to Chapter-18, and
  - (b) Tax shall not be deemed due and payable as per tax assessment.
100. Self-assessment of tax: (1) Section 99 shall be applicable If the income return of any income year or any part of any income year has to be submitted pursuant to sub-section (5) of Section 96.

<sup>290</sup>(2) Notwithstanding anything contained in sub-section (1), in the circumstance mentioned in sub-section (5) of Section 96, the Department may, based on the amounts mentioned in sub-clauses (1), (2) and (3) of clause (a) of sub-section (2) of Section 96, assess the tax of that person for any income year or for the part of such year in a justifiable manner.

(3) The following provision shall be applicable if tax is assessed pursuant to sub-section (1) or (2):

(a) A person whose tax is assessed for the whole income year is not required to submit the income return referred to in sub-section (1) of Section 96 for that income year, or

(b) A person whose tax is assessed for a portion of any income year is required to submit the income return referred to in sub-section (1) of Section 96 for that income year.

(4) The amount of tax paid as per the assessment of tax for a portion of any income year may be adjusted to the tax chargeable as per the assessment of tax for the whole year.

(5) In assessing the tax pursuant to this Section, the Department has to give a time-limit of seven days for the submission of proof and evidence for defense.

101. Amended tax assessment: (1) The Department may have amended tax assessment in order to adjust the tax liability of a person whose

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<sup>290</sup> Amended by the Financial Act, 2018.

tax has been assessed pursuant to Section 99 or 100 on reasonable grounds.

(2) If the Department thinks it proper to re-amend the amended tax assessment made pursuant to sub-section (1), it may amend it for times, irrespective of how many, on reasonable grounds.

(3) The Department shall, in assessing the tax pursuant to sub-section (1) or (2), complete assessment within four months from the following date:

- (a) If tax is assessed pursuant to Section 99, the due date for the submission of income return,
- (b) If tax is assessed pursuant to sub-section (2) of Section 100, the date on which the tax assessment notice is given to the person whose tax is assessed,
- (c) If tax is assessed pursuant to sub-section (1) or (2), the date mentioned in clause (a) or (b) related with the previous tax assessment that has been amended pursuant to sub-section (1).

(4) Notwithstanding anything contained in sub-section (3), if the tax of any person has been assessed in a wrong manner due to fraud, the Department may amend such tax assessment at any time. Such amendment has to be made no later than one year of receipt of information that details have been given or tax assessed fraudulently.

(5) Notwithstanding anything contained in sub-section (3), if the tax assessment is amended or the assessed tax is lessened by

the Revenue Tribunal or other competent courts, the Department shall not be able to amend such tax assessment to that extent.

Provided that if an order has been issued to reexamine it, it shall not be deemed to bar the making of amendment.

(6) In making amendment to tax assessment pursuant to this Section, the Department has to give that person a notice in writing clearly setting out the grounds for such amendment and a time limit of <sup>291</sup>fifteen days for the submission of proof and evidence for defense on such assessment of tax.

102. Tax assessment notice: The Department shall give the person, whose tax is assessed, a written notice of tax assessment made pursuant to sub-section (2) of Section 100 or Section 101 setting out the following matters:

- (a) The assessed tax to be paid and due and payable by the person mentioned in clauses (a) and (b) of Section 3 for the income year or period related with assessment of tax,
- (b) The method of computation of tax in the tax assessment as mentioned in clause (a),
- (c) The reason why the Department has to assess the tax,
- (d) The time for payment of the assessed tax due and payable, and

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<sup>291</sup> Amended by the Financial Act, 2018.

- (e) The time, place and mode for making a petition if one is not satisfied with the assessment of tax.

## Chapter-20

### Collection, Remission and Refund of Tax

103. Security for tax payable by withholding: (1) The tax required to be withheld by a person who has to withhold tax pursuant to Chapter-17 has to be given preference to any payment to be made by the order of a court or as per any other law or in any other manner.

(2) The following provisions shall apply in respect of the tax withheld by a person who has to withhold tax pursuant to Chapter-17:

- (a) The tax withheld by such a person as well as the property, if any, received for such tax shall be deemed to have been withheld for the Government of Nepal,
- (b) The amount of tax so withheld cannot be attached to the loan or liability of such a person, and
- (c) If the person withholding such tax becomes bankrupt or is dissolved, the amount of tax so withheld shall not be treated as a part of the assets so become bankrupt or dissolved; and in making division upon such dissolution or bankruptcy, the Department shall have the first lien over the tax withheld or over the property.

104. Lien over property: (1) Notwithstanding anything contained in the laws in force, if any person does pay tax on the due date for payment

of tax, the lien of the Government of Nepal shall be deemed to have been created over the property of the person who is in arrear of tax.

(2) When claiming the property over which the lien is created pursuant to sub-section (1), the Department shall give that person a written notice setting out the following matters:

- (a) Description of the property claimed,
- (b) Limit of the claim referred to in sub-section (3),
- (c) Tax related to the claim, and
- (d) Other matters, if any.

(3) When making a claim in the property pursuant to sub-section (2), the claim shall be created only to the extent of the tax due and payable by such a person, interest and claim to be paid in respect of such tax pursuant to Section 119 and the expenses incurred in auction sale.

(4) The claim made pursuant to sub-section (2) shall not lie unless and until the following matter takes place:

- (a) Until the Department gives information to have the claim registered pursuant to sub-section (6) in respect of the building and land,
- (b) Until the Department possesses such property pursuant to sub-section (3) of Section 105 in respect of other direct/tangible property, and

(c) Until the notice referred to in sub-section (2) is given to the person who is in arrear of tax, in any other circumstances whatsoever.

(5) If the person who is in arrear of tax pays to the Department all the amounts referred to in sub-section (3) and covered by the claim made pursuant to sub-section (2), which are due and payable by such a person.

(6) If the Department makes a claim over any land or building pursuant to sub-section (2), information has to be given to the concerned Land Revenue Office; and that Office has to so withhold such land or property that it cannot be sold and disposed of to or ownership to it cannot be transferred to any person.

(7) If the claim over the land and building has to be released pursuant to sub-section (5), the Department has to give information thereof to the Land Revenue Office. Upon receipt of such information, the Land Revenue Office has to release the land and building so withheld.

(8) The Department has to promptly give the person in arrear of tax a notice setting out the following matters, in respect of the expenses to be incurred pursuant to sub-section (3):

- (a) The expenses incurred by the Department for the claim on the property of the person in arrear of tax and for the auction sale thereof, prior to giving such a notice, and
- (b) The date on which the person in arrear of tax has to pay such expenses to the Department.

Explanation: For purposes of this Section, "expenses incurred for claim and auction sale" means the following expenses incurred or to be incurred by the Department:

(a) The expenses incurred or to be incurred by the Department in creating or releasing the claim over the property, or

(b) The expenses incurred or to be incurred by the Department pursuant to Section 105 in possessing, holding and auctioning the claimed property.

105. Auction sale of claimed property: (1) The Department shall give the person in arrear of tax a notice on auctioning the claimed property held by the person in arrear of tax.

(2) The notice given pursuant to sub-section (1) may be included in the notice given pursuant to sub-section (2) of Section 104 or attached with such a notice. Such a notice has to clearly set out the following matters and be given to the person in arrear of tax:

(a) The property claimed and the mode and time of auction or sale of the property, and

(b) In respect of a tangible property, the mode and place of possessing the property by the Department.

(3) After the Department has given the notice referred to in sub-section (1) or (2) to the person in arrear of tax, it may do as follows:

- (a) To have possession of the tangible property mentioned in the notice at any time,
- (b) To enter into any premises mentioned in the notice referred to in sub-section (1) for the purpose of having possession of the tangible property at any time,
- (c) In respect of the tangible property except the land or building, to keep such properties in such place as thought proper by the Department at the expense of the person in arrear of tax.

(4) If the Department has given the notice referred to in sub-section (1) to the person in arrear of tax, it may, in the following time, publicly auction such claimed property or sell and dispose of or use such property in such manner as thought proper:

- (a) If the claimed property is the land or building, after thirty days of the date of possession of such property pursuant to sub-section (3),
- (b) If the claimed property is a perishable tangible property, after one day of the date of possession pursuant to sub-section (3),
- (c) If the claimed property is a tangible property except those properties mentioned in clause (a) or (b), after ten days of possession pursuant to sub-section (3), and
- (d) If the claimed property is any other kind of property, after ten days of possession of such property pursuant to sub-section (3).

(5) The expenses incurred in having claim and auctioning the property auctioned shall first be deducted from the proceeds derived from the auction sale pursuant to sub-section (4). After the expenses are so deducted, the payable tax and the interest payable on the tax pursuant to Section 119 shall be deducted; and then, if any amount remains balance, such amount shall be refunded to the person in arrear of tax.

(6) After the proceeds derived from the auction sale have been adjusted pursuant to sub-section (5), the Department has to give a written notice setting out the process of the adjustment to the person in arrear of tax.

(7) If, in adjusting the proceeds derived from the auction sale by following the process referred to in sub-section (5), the proceeds are not sufficient to fully pay the amounts for the expenses mentioned in that sub-section, tax and interest, the Department has to re-institute the action to recover the shortfall amount pursuant to Section 104, 111 or this Section.

Explanation: For purposes of this Section,

- (a) "Claimed property" means the property of the person withholding tax, who is in arrears of tax, mentioned in sub-section (2) of Section 103 or sub-section (2) of Section 104.
- (b) "Expenses incurred in making claim and auction sale" means the expenses incurred in making claim and auction sale pursuant to Section 104.

(c) "Person in arrear of tax" includes the person withholding tax mentioned in Sections 103 and 104.

106. To prevent departing from<sup>292</sup>.....Nepal: (1) If any person does not pay the tax within the time-limit due for the payment of tax, <sup>293</sup>the Department may, by giving a written notice to the concerned office of the Government of Nepal, issue an order to prevent such person from leaving the country for a period not exceeding 72 hours from the date of expiration of the time of issue of the notice to such person to pay tax.

(2) If it is required to may any extension in the period mentioned in sub-section (1), the Department shall obtain prior leave of the concerned High Court.

(3) If the person referred to in sub-section (1) pays tax or the Department thinks that such person has made satisfactory arrangement on payment of tax, it may withdraw such order by giving a notice to the concerned office pursuant to sub-section (1).

107. Officer employees of entity to be held responsible: (1) If any entity does not observe anything required to be observed under this Act, each person who acts as the officer of that entity at that time shall be responsible for that.

(2) If any entity does not pay tax on the date due for payment of tax, all officers who are incumbent in that entity for the time being or incumbent until before six months shall be jointly and severally liable to pay that tax.

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<sup>292</sup> Removed by the Republic Strengthening and Some Nepal Laws Amendment Act, 2010.

<sup>293</sup> Amended by the Financial Act, 2018.

(3) Notwithstanding anything contained in sub-sections (1) and (2), these sub-sections shall not be applicable in the following circumstances:

- (a) Where the entity has committed such offense without knowledge and consent of such person, and
- (b) Where that person has, in order to avoid such offense, observed or exercised care, effort and skill which a reasonable man would observe or exercise in similar circumstances.

(4) If any person pays the tax required to be paid pursuant to sub-section (2), that person may do as follows:

- (a) To recover the amount which he has so paid from that entity,
- (b) For purposes of clause (a), to so hold under own control the property including the moneys of that entity which is under his possession or which may come under his possession that it is not in excess of the amount so paid.

(5) If any person holds any property under his control pursuant to clause (b) of sub-section (4), the entity or any other person shall not be entitled to make any claim against such person.

Explanation: For purposes of this Section, "officer of any entity" means the manager of that entity or any person who acts in that capacity.

108. Recovery of tax from recipient: (1) Each recipient shall give a notice of the matter to the Department no later than fifteen days of the date of appointment to the post of recipient or the date of having possession of the property situated in Nepal, whichever is earlier.

(2) The Department shall give a written notice to the person in arrear of tax on the amount to be paid.

(3) On receipt of the notice referred to in sub-section (1), the recipient shall do as follows:

(a) To set aside the amount notified by the Department under sub-section (2) after making payment of the loan, if any, which is preferential to the tax payable pursuant to sub-section (2), subject to clause (c) of sub-section (2) of Section 103, from the proceeds of the sale of the required portion of the property which have come under possession of the recipient, and

(b) To pay to the Department the amount so set aside for his tax liability on behalf of the person in arrear of tax.

(4) It shall be the personal liability of the recipient to pay to the Department the amount equal to the tax liability payable by such person in arrear of tax to the extent that no amount has been set aside by the recipient pursuant to sub-section (3).

Provided that the recipient may recover from the person in arrear of tax the amount of tax paid.

Explanation: For purposes of this Section, -

- (a) "Recipient" means any of the following persons:
  - (1) A liquidator,
  - (2) A person appointed from outside or by a court as a recipient in respect of any property or entity,
  - (3) A person possessing a property by mortgage,
  - (4) Heir apparent, administrator or manager of the property belonging to a deceased individual, or
  - (5) A person looking after the affairs of an incapacitated individual.
- (b) "Person in arrear of tax" means the person whose property has come under possession of the recipient.

109. Recovery of tax from the person liable to pay tax: (1) If the person in arrear of tax does not pay tax within the due date for payment of tax, the Department may, by giving a notice in writing, order any of the following payers to pay to it the amount to the extent of the amount of tax payable on behalf of the person in arrear of tax, within the date mentioned in that notice:

- (a) The person who has to pay amount to the person in arrear of tax,
- (b) The person who holds money for or on behalf of the person in arrear of tax,
- (c) The person who holds money on behalf of any third person in a manner to pay it to the person in arrear of tax, or

(d) The person who has got authority from the third party to pay the amount to the person in arrear of tax.

(2) The Department has to give a copy of the notice given to the payer pursuant to sub-section (1) to the person in arrear of tax.

(3) Notwithstanding anything contained in sub-section (1), the date mentioned in the notice referred to in that sub-section shall not be earlier than the date mentioned in clauses (a) and (b):

(a) The date on which the amount has to be paid to the person in arrear of tax or the date on which such amount has been held on his behalf, and

(b) The date on which the notice has been given pursuant to sub-section (2).

(4) The amount paid by the payer pursuant to sub-section (1) shall be deemed as paid to the person in arrear of tax. The person in arrear of tax or any other person shall not be allowed to claim such amount against the payer.

110. Recovery of tax from the agent of non-resident person: (1) If a non-resident person in arrear of tax does not pay tax within the due date for payment of tax, the Department may, by giving a notice in writing, order any person who is in possession of any property owned by the person who is in arrear of tax to pay tax from the amount equivalent to the market value of that property, on behalf of the person in arrear of tax, in respect of the tax liability of the third person, in the sum not exceeding the amount of tax payable by such person in arrear of tax, within the date mentioned in the notice.

(2) If any person pays the amount of tax as per the order referred to in sub-section (1), he may do as follows:

(a) To recover the amount of such payment from the person in arrear of tax,

(b) For purposes of clause (a), to take under his control any property whatsoever, including the money belonging to the person in arrear of tax, which is or would come in his possession, in such a manner that it is not in excess of the amount so paid.

(3) If any person takes possession of any property pursuant to clause (b) of sub-section (2), the person in arrear of tax or any other person shall not be allowed to make any claim against such a person.

<sup>294</sup>110A.Recovery of arrear tax in installment: If, prior to the institution of the case pursuant to Section 111, any person makes a written request to pay the arrear amount in installment, the tax officer may give approval to pay in installment, giving a reasonable time-limit.

<sup>295</sup>110B.Responsibility of tax payment of joint venture: The persons involved in a joint venture shall be jointly or individually responsible for payment of tax obligation of the joint venture in which they are involved.

<sup>296</sup>110C.Person receiving real consideration to be responsible for payment of tax: If it is proved that the person receiving real consideration of a

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<sup>294</sup> Inserted by the Financial Act, 2018.

<sup>295</sup> Inserted by the Financial Act, 2018.

<sup>296</sup> Inserted by the Financial Act, 2019.

business is different than the person registered for business, the person receiving such consideration shall be responsible for payment of tax of such business.

111. Institution of case on failure to pay tax: The Department may file a case in the concerned District Court for the recovery of tax from the person who does not pay tax on the due time-limit for payment of tax.

112. Remission: (1) If the tax payable by any person cannot be recovered, the Government of Nepal may remit such tax in full or in part.

(2) Notwithstanding anything contained in sub-section (1), the Government of Nepal may remit, in full or in part, the fee or interest imposed pursuant to Chapter-22.

113. Tax refund and adjustment of amount: (1) If any person has paid tax exceeding the tax liability payable by him, the Department may give direction to subtract the excess amount of tax paid by him from the amount of tax payable by him pursuant to this Act. The Department has to refund the excess amount to be set by such subtraction to the concerned person.

(2) If the tax in question is not to be paid along with the interest paid by any person pursuant to Section 119, the Department has to refund such interest to that person.

<sup>297</sup>(3) If any person makes an application to the Department, as prescribed, for the refund of the amount pursuant to sub-section

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<sup>297</sup> Amended by the Financial Act, 2018.

(1), the Department shall refund such amount within sixty days of the date on which the application was made.

(4) The person who makes an application pursuant to sub-section (3) has to make such application within two years from the latest date out of the following dates. If an application is not made within that time-limit, the amount referred to in sub-section (1) shall not be refunded:

- (a) The date of expiration of the income year existed by virtue of payment of the excess amount,
- (b) The date on which the excess amount is paid, or
- (c) The date on which is the case is decided.

(5) The Department shall give a notice in writing of the decision made by it on the application made pursuant to sub-section (3).

(6) When refunding any amount of tax by the Department to any person by virtue of the order of a court or any other reason, the Department has to pay to such a person the interest as per the normal rate for the following period:

- (a) If such tax refund is related to the excess tax adjustment available to any person in any income year pursuant to Section 93, 94 or 100, the period between the due date for submission of the tax return pursuant to Section 96 and the date of tax refund, and

(b) In any other case, the period between the date of payment by such person of the refundable tax and the date of tax refund.

(7) Tax deduction that can be claimed pursuant to Section 51 or 71 shall not be adjusted in any year, and such tax deduction shall not be adjusted in amounts or refunded pursuant to this sub-section.

Provided that the tax deduction adjustment may be made in that year in accordance with the provisions contained in sub-section (2) of Section 4, sub-section (4) of Section 51 and sub-section (3) of Section 71.

## Chapter-21

### Review and Appeal

114. Decisions subject to administrative review, and procedures therefor:

(1) For the purposes of this Act, the following decisions may be subject to administrative review:

(a) Advance ruling issued by the Department pursuant to Section 76,

<sup>298</sup>(a1) Decision or order made pursuant to sub-section (8) of Section 90,

(b) Estimate made by the Department on, or decision made by it to estimate, the estimated tax payable by any person, pursuant to sub-section (7) of Section 95,

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<sup>298</sup> Inserted by the Financial Act, 2018.

- (c) Decision made by the Department to order any person to submit the income return pursuant to sub-section (5) of Section 96 or Section 97,
- (d) Decision made by the Department on any application made by any person for the extension of the time-limit for submission of the income return pursuant to Section 98,
- (e) Assessment of tax payable by any person for any income year pursuant to Section 100 or 101 or assessment of auction expenses referred to in sub-section (5) of Section 105<sup>299</sup> or assessment of the fees and interest payable by any person pursuant to Section 122,
- (f) Notice given by the Department requiring to set aside the amounts as receivable by any person as a recipient, pursuant to sub-section (2) of Section 108,
- (g) Decision made by the Department to order any person who holds moneys payable to the person in arrear of tax to pay the same to the Department pursuant to sub-section (1) of Section 109,
- (h) Decision made by the Department to order any person to pay tax of any person due and payable on behalf of a non-resident person pursuant to sub-section (1) of Section 1110,

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<sup>299</sup> Inserted by the Financial Act, 2018.

- (i) Decision made by the Department on any application made by any person for the refund of tax pursuant to sub-section (5) of Section 113, and
- (j) Decision made by the Department on any application made by any person for the extension of the time-limit for filing a complaint pursuant to sub-section (3) of Section 115.

(2) In spite of any decision made by the Department on the matters mentioned in clauses (d), (i) and (j) of sub-section (1), if the Department does not give a notice of the decision to the applicant within thirty days after the making of the application pursuant to Section 98, sub-section (3) of Section 113 or sub-section (3) of Section 115, the decision may be subject to administrative review as if it were a decision to reject the application.

(3) If the applicant does receive a notice of decision within the time-limit referred to in sub-section (2) and registers information thereof with the Department, the decision made by the Department to reject the application mentioned in that sub-section and notice thereof shall be deemed to have been served on that person on that date.

115. Application for administrative review: (1) A person who is not satisfied with any decision subject to administrative review referred to in Section 114 may make an application to the Department against the decision within thirty days of the date of receipt of notice of that decision.

(2) The application to be made pursuant to sub-section (1) has to clearly set out the reasons and grounds for such review.

(3) If the time-limit for making application pursuant to sub-section (1) expires and any person makes an application for the extension of time-limit within seven days from the date of expiration of the time-limit, the Department may do as follows:

- (a) To extend the time-limit for a period not exceeding thirty days from the date of expiration of the time-limit for making application pursuant to sub-section (1), where there is a reasonable reason, and
- (b) To give the applicant a written notice of the decision made by the Department on the application.

(4) The implementation of the decision mentioned in sub-section (1) of Section 114 shall not be deemed to be affected from the making of application pursuant to sub-section (1).

(5) Notwithstanding anything contained in sub-section (4), the Department may postpone or otherwise affect the decision made pursuant to sub-section (1) of Section 114 pending the settlement of the application made by any person pursuant to sub-section (1).

<sup>300</sup>(6) A person who makes an application pursuant to sub-section (1) shall pay the total amount of undisputed tax and <sup>301</sup>one fourth of the disputed tax, out of the assessed tax amount.

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<sup>300</sup> Amended by the Financial Act, 2018.

<sup>301</sup> Amended by the Financial Act, 2019.

(7) The Department may do as follows on an application made by any person pursuant to sub-section (1):

- (a) To accept or reject, fully or partly, the matters mentioned in the application, and
- (b) To give a written notice of the decision on the application.

<sup>302</sup>(8) If the Department fails to give the applicant a notice of decision on the application within sixty days of the date on which the application was made pursuant to sub-section (1), the applicant may make an appeal to the Revenue Tribunal pursuant to Section 116.

<sup>303</sup>(9) If an appeal is made pursuant to sub-section (8), such person shall give information in writing to the Department, enclosing the copy of appeal, within fifteen days of the date on which appeal was filed.

116. Appeal to the Revenue Tribunal: (1) A person who is not satisfied with any decision made to the Department pursuant to Section 115 may make an appeal to the Revenue Tribunal under the Revenue Tribunal Act, 2031(1974).

(2) A person who makes an appeal pursuant to sub-section (1) has to register a copy of the appeal with the Department within fifteen days of the date of making appeal.

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<sup>302</sup> Amended by the Financial Act, 2019.

<sup>303</sup> Amended by the Financial Act, 2019.

(3) The implementation of the decision mentioned in sub-section (1) of Section 114 shall not be deemed to be affected from the making of an appeal pursuant to sub-section (1).

(4) Notwithstanding anything contained in sub-section (1) of Section 114, if the Director General has made a decision subject to administrative review as mentioned in that sub-section, an appeal may be made to the Revenue Tribunal.

<sup>304</sup>(5) Upon filing an appeal to the Revenue Tribunal pursuant to sub-section (1), the undisputed amount of the assessed tax shall be submitted and fifty percent of the disputed tax amount, charge and fine amount or bank guarantee of such amount shall be provided.

<sup>305</sup>(6) In calculation of the deposit or bank guarantee pursuant to sub-section (5), it shall be calculated including also the twenty-five percent of tax amount submitted to the Inland Revenue Department for administrative review.

## Chapter-22

### Fees and Interest

117. Fees to be charged in event of failure to maintain documents or to submit return or income return: <sup>306</sup>(1) If any person does not submit the following details, the following charge shall be imposed on him:

(a) If the income return of any income year has not been submitted pursuant to sub-section (1) of Section 95,

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<sup>304</sup> Inserted by the Financial Act, 2021.

<sup>305</sup> Inserted by the Financial Act, 2021.

<sup>306</sup> Amended by the Financial Act, 2018.

<sup>307</sup>five thousand rupees or 0.01 percent of the assessable amount of income mentioned in the income return, whichever is higher,

- (b) If any person required to collect advance tax has not submitted the details pursuant to sub-section<sup>308</sup>(9) of Section 95A., such person shall be imposed one and half percent annually of the amount of advance tax to be collected from the date required to make submission till the date of actual submission for each month and the portion of the month,
- (c) If the income return of any income year is not submitted pursuant to sub-section (1) of Section 96, for the person mentioned in sub-section (4) of Section 4, amount at the rate of one hundred rupees per month and for the other persons, at the rate of 0.1 percent per year of the assessable income drawn out without deducting any amount, if any, that can be deducted and by including any amount, if any, that has to be included in computing the income of any income year or hundred rupees per month, whichever is higher.

(2) If any person does not maintain the documents required to be maintained in any income year pursuant to Section 81, a fee in a sum to be set by 0.1 percent per year of the assessable income drawn out without deducting any amount, if any, that can be

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<sup>307</sup> Amended by the Financial Act, 2019.

<sup>308</sup> Amended by the Financial Act, 2020.

deducted and by including any amount, if any, that has to be included in computing the income of any income year for each month and portion of the month or a sum set by one thousand rupees per month, whichever is higher, shall be imposed on such a person.

(3) If any person withholding tax does not submit the return referred to in sub-section (1) of Section 90, a fee in a sum to be set by two and a half percent per year of the amount of tax to be withheld for each month and portion of the month from the due date for submission of the return until the date on which such return is submitted shall be imposed on such a person.

<sup>309</sup>118. Interest to be charged where person making payment in installments makes lesser payment of estimated tax: (1) If, with respect to the amount of installment tax to be paid by any person in any income year under Section 94, the amount paid pursuant to clause (b) becomes higher than that of clause (a), interest shall be charged on such more amount pursuant to sub-section (2):

- (a) Amount of each installment paid by such person in any income year,
- (b) Estimated amount or amount of revised estimate, if correct, and, if not correct, ninety percent tax amount of each installment period in such income year to be submitted by the person mentioned in clauses (a) and (b) of Section 3.

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<sup>309</sup> Amended by the Financial Act, 2018.

(2) There shall be imposed on the person referred to in sub-section (1) an interest at the general interest rate of each month and portion of the month for the following period from the date for submission of the installment of that year:

- (a) In the case of a person required to assess tax pursuant to sub-section (1) of Section 99, till the date for submission of income return
- (b) In the case of a person for whom the revised tax has been assessed by the Department for the first time under Section 101 as not being tax assessed pursuant to sub-section (1) of Section 99, till the date of submission of notice of such amended tax assessment under Section 102.

Explanation: For the purpose of this Section, "amount to be submitted on installment" means the installment amount computed on the basis of the provision of sub-section (5) of Section 95 for not submitting revised estimate once the estimate has been submitted pursuant to sub-section (1) of Section 94 and for those not submitting estimate that the Department estimates pursuant to sub-section (7) of Section 95 and for those submitting revised estimate and where the Department estimates being not satisfied with the estimate or revised estimate submitted pursuant to sub-section (7) of Section 95.

119. Interest to be charged if tax is not paid: (1) If any person does not pay tax on the prescribed due date for payment of tax, an interest by the normal rate of interest, for each month and portion of the month,

in the amount due and payable shall be imposed on the person for the period during which tax is so due and payable.

(2) For the purpose of computing the interest to be paid pursuant to sub-section (1), interest shall not be exempted in the extended time-limit given pursuant to Section 98.

<sup>310</sup>(3) The person responsible for withholding tax shall not be allowed to recover the interest payable by him or her, because of his or her failure to comply with sub-section (8) of Section 95A, or the person withholding tax shall not be allowed to recover the interest payable by him or her, because of his or her failure to comply with sub-section (4) of Section 90, from the person required to make tax withholding or the person subject to tax withholding.

<sup>311</sup>(4) If the tax is not paid within the time-limit given pursuant to Section 110A., it shall be recovered from such person along with an additional interest of five percent per annum on the outstanding tax.

<sup>312</sup>119A. Charge to be imposed: Except as otherwise provided in this Act, there shall be imposed a charge of five thousand to twenty-five thousand rupees on a person who does not comply with any provision of this Act or the Rules framed under this Act.

120. Charge to be imposed on the person who submits false or misleading statement: If any person submits to the Department a false or misleading statement on any matter or the information mentioned in the statement becomes misleading as a result of concealing

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<sup>310</sup> Amended by the Financial Act, 2018.

<sup>311</sup> Inserted by the Financial Act, 2018.

<sup>312</sup> Inserted by the Financial Act, 2018.

information of any matter or thing required to be submitted or removing such information from the statement, the following charge shall be imposed on such a person:

- (a) If it has become false or misleading not by knowingly or recklessly but by mistake, fifty percent of the amount less resulted therefrom.
- (b) If it has become false or misleading knowingly or recklessly, one hundred percent of the amount less resulted therefrom.

Explanation: For the purposes of this Section, "statement submitted to the Department" means any statement submitted in writing to the Department or to the officer authorized by the Department in the course of performing the duty pursuant to this Act and includes the statement submitted as follows:

- (a) Application, notice, description, complaint, deposition, or other document submitted, prepared, given or furnished pursuant to this Act,
- (b) Document submitted to the Department or any officer of the department except under this Act,
- (c) Reply to any question asked by the Department or any officer to any person, or
- (d) Information given by any person who has reasonable knowledge of the matter to be informed to the Department or any officer through any other person.

121. Charge to be imposed on accomplice: A charge of cent percent amount of the tax less paid by an accomplice who knowingly or recklessly aids or abets or advises any offender <sup>313</sup>referred to in this Act shall be imposed on such accomplice.

122. Assessment of fee and interest: (1) The Department shall assess the fee and interest required to be paid by any person pursuant to this Chapter.

(2) In computing the liability for the fee and interest chargeable where any particular act has not been performed or chargeable in respect of any statement pursuant to this Chapter, it shall be computed separately in the case of each section of this Chapter.

(3) The fee and interest chargeable pursuant to this Section shall be added to any other tax, if any, payable pursuant to this Act; and mere payment of such fee and interest shall not be deemed as the release of any person from the liability related to criminal proceedings mentioned in Chapter-23.

(4) If the fee and interest have been assessed pursuant to this Section, the Department shall give a written notice of the assessment, setting out the following matters, to that person. Such notice may be attached to and sent along with the notice to be issued pursuant to Section 102:

(a) The reasons why the Department has to assess the fee and interest,

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<sup>313</sup> Amended by the Financial Act, 2018.

- (b) The amount for the fee and interest payable,
- (c) The method how the amount has been computed,
- (d) The time, place and mode for making a compliant against the assessment.

(5) It shall be as follows in assessing the fee and interest pursuant to this Section:

- (a) The matters contained in sub-section (1), sub-section (2), clause (b) of sub-section (3), sub-sections (4) and (5) of Section 101 shall also be applicable in assessing the fee and interest pursuant to this Section, and
- (b) The matters contained in clauses (b) and (c) of sub-section (3), sub-sections (4) and (5) of Section 101, and Section 102 shall also be applicable in the case of sub-section (4) of this Section.

## Chapter-23

### Offense and Punishment

123. Punishment to one who does not pay tax: A person who does not pay tax, without any reasonable ground, by the due date for payment of tax shall be punished with a fine of a sum from five thousand rupees to thirty thousand rupees or with imprisonment for a term from one month to three months or with both punishments.
124. Punishment to one who submits false or misleading statement: If any information or statement submitted by any person to the Department is false or misleading because of submission with intention or

recklessness or that information becomes misleading since such person has not mentioned information of any particular matter or thing in the statement in respect of such subject, such person shall be punished with a fine of a sum from forty thousand rupees to one hundred sixty thousand rupees or with imprisonment for a term from six months to two years or with both punishments.

<sup>314</sup>Explanation: For the purposes of this Section, "any information or statement submitted to the Department" means any statement/details submitted to the Department or the officer authorized by the Department in the course of complying with the obligation under this Act in writing and the statement/details submitted as follows:

- (a) Application, notice, details, complaint, statement, or other documents deposited, prepared, provided or submitted in accordance with this Act,
- (b) Document submitted to the Department or any officer of the Department,
- (c) Answers to the questions asked by the department or any officer to any person, or
- (d) Information provided by any person, having reasonable information of the details to be provided, to the Department or any officer through any other person.

125. Punishment to one who obstructs or unduly influences tax administration: (1) Any person who commits the following act shall be punished with a fine of a sum from five thousand rupees to twenty

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<sup>314</sup> Amended by the Financial Act, 2018.

thousand rupees or with imprisonment for a term from one month to three months or with both punishments:

- (a) To obstruct the officer of the Department in the course of carrying out his duty pursuant to this Act,
- (b) Not to act as per the notice referred to in Section 83, or
- (c) To obstruct in any other manner in the implementation of this Act.

(2) Any person who attempts to commit any act referred to in sub-section (1) shall be punished with half a punishment mentioned in that sub-section.

126. Punishment in the event of commission of offence by the person with or without authority: (1) Any authorized person who violates Section 84 shall be punished with a fine of a sum not exceeding eighty thousand rupees or with imprisonment for a term not exceeding one year or with both punishments.

(2) If any person who is not authorized under this Act collects tax or any other amount in the name of tax or attempts to collect the same, such a person shall be punished with a fine of a sum from eighty thousand rupees to two hundred thousand rupees or with imprisonment for a term from one year to three years or with both punishments.

127. Punishment to accomplice: Any person who intentionally aids or abets or advises any other person to commit any offense under this

Act <sup>315</sup>or certifies fake financial or tax account or gives wrong advice shall be punished with half a punishment imposed on the offender.

Provided that if such an accomplice is a governmental employee, he shall be liable to punishment equal to the punishment imposed on the offender.

128. Punishment to one who does not observe the Act: Except as otherwise provided for in this Act, any person who does not observe any provisions of this Act or the rules framed under this Act shall be punished with a fine of a sum from five thousand rupees to thirty thousand rupees.

129. Power of Department to pay amount of fine: (1) Notwithstanding anything contained elsewhere in this Chapter, if any person admits in writing that he has committed any one or more offenses mentioned in this Chapter, except the offense mentioned in Section 126, before the commencement of the court proceedings, the Department may order such a person to pay the amount of fine not exceeding the amount of fine imposable for the commission of such one or more than one offense.

(2) In making the order referred to in sub-section (1), the Department has to set out in such an order such offense, the amount of fine to be paid and the date for payment of the amount of fine.

(3) The order made by the Department pursuant to this Section shall be final and no appeal may be made against it.

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<sup>315</sup> Inserted by the Financial Act, 2018.

130. To be state cases: The cases under this Chapter shall be state cases.
131. Investigation and filing of cases: (1) The prescribed officer shall investigate the case on the offense punishable under this Chapter, and case shall be filed in the concerned District Court within thirty-five days of the completion of such investigation.
- (2) In conducting investigation pursuant to sub-section (1), the investigating officer shall seek advice and opinion of the government attorney.

## Chapter-24

### Miscellaneous

132. Power to obtain expert's service: The Government of Nepal or <sup>316</sup>the Department may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 84 shall also apply to such expert.
133. Departmental action to be taken: If the liability of a taxpayer increases or decreases because of the assessment of tax made with recklessness, the Director General may institute departmental action to punish the concerned officer who has assessed such tax or has not assessed the revised tax within the time limit referred to in sub-section (3) of Section 101.
134. Identity card of officer: Each officer has to hold the identity card as prescribed and show such identity card where any one requests him to show it.

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<sup>316</sup> Inserted by the Financial Act, 2018.

135. Powers of court of law to be vested: For the purposes of this Act, the Department shall have the powers vested in a court under the law in force in the matters of summoning the presence of the concerned person, recording of statements, examining evidence, and compelling production of documents.

136. Not to be responsible for an act done in good faith: Notwithstanding anything contained elsewhere in this Act, no officer shall be personally responsible for any act which he or she has done in good faith in carrying out the duties.

<sup>317</sup>136A. Provision for prize and informant's expenses: (1) A person who provides information, along with the evidence, that any person has evaded, or attempted to evade, whole or any portion of his or her tax liability may be awarded with the prize of amount equal to twenty percent of the tax amount as assessed on the basis of the evidence submitted by that person from the amount of tax recovered on the basis of his information, upon the decision of the Director General.

(2) If there are more than one person entitled to the prize pursuant to sub-section (1), the amount of prize shall be provided on pro rata basis.

(3) Notwithstanding anything contained in sub-section (1), a person who gives information on revenue leakage may be provided immediately with the informant's expenses up to ten thousand rupees pursuant to the procedures specified by the

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<sup>317</sup> Inserted by the Financial Act, 2018.

Department, on the basis of truthfulness of the information provided as such.

(4) The name, surname and address of the person providing information pursuant to subsections (1) and (3) shall be kept confidential.

137. Power of the Government of Nepal to give order or direction: The Government of Nepal may give necessary order or direction to the Department in order to make tax administration effective.
138. Power to frame rules: The Government of Nepal may frame necessary rules in order to carry out the objectives of this Act.
139. Power to make and enforce directives: The Department may make and enforce necessary directives, subject to this Act and the rules framed under this Act.
140. Alteration in Schedule: The Government of Nepal may, by a notification in the Nepal Gazette, may make necessary alterations in the Schedules other than Schedule-1.
141. Police to render assistance: It shall be the duty of the Police to render such assistance as sought by the Department on the implementation of this Act and the rules framed under this Act.
142. This Act to prevail on tax provision: Notwithstanding anything contained in the law in force, except if the Financial Act to be enforced in every year amends this Act and provides for the imposition, assessment, increase, decrease, exemption, or remission of tax, no other Act shall make other provisions on amendments to,

alteration in, the tax provisions referred to in this Act or other tax related provisions.

143. Repeal, amendment and saving: (1) The Income Tax Act, 2031 (1974) and the House and Land Rent Tax Act, 2023 (1966) are hereby repealed.

(2) The following Acts are hereby amended as follows:

(a) <sup>318</sup> .....

(b) Amendment to the Employee Provident Fund Act, 2019 (1962): The words "no tax of any kind except income tax shall be levied" shall be substituted for the words "no tax of any kind shall be levied" contained at the end of clause (b) of Section 18 of the Employee Provident Fund Act 2019 (1962).

(c) Amendment to the Nepal Petroleum Act, 1984 (2040): Clause (c) of Section 13 of the Nepal Petroleum Act, 1984 is hereby deleted.

(d) Amendment to Section 29 of the Retirement Fund Act, 1986 (2042): The words "no tax of any kind except income tax shall be levied" shall be substituted for the words "no tax of similar other kind shall be levied" contained in Section 29 of the Retirement Fund Act, 1986.

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<sup>318</sup> Removed by the Republic Strengthening and Some Nepal Laws Amendment Act, 2010.

- (e) Amendment to Section 51 of the Citizen Investment Fund Act, 1991 (2047): Section 51 of the Citizen Investment Fund Act, 1991 is hereby repealed.
- (f) Amendment to Section 30 of Nepal <sup>319</sup>.....Academy for Science and Technology Act, 1991 (2048): Section 30 of the Nepal <sup>320</sup>.....Academy for Science and Technology Act, 1991 is hereby repealed.
- (g) <sup>321</sup>Amendment to Section 15 of the Industrial Enterprises Act, 1992 (2049):
- (1) Clauses (c), (d), (e), (j), (l), (p), (q), (r) and (s) of Section 15 of the Industrial Enterprises Act, 1992 are hereby deleted.
  - (2) The words "respectively thirty, twenty-five and twenty percent on the income tax until ten years of the date of operation and" contained in clause ((f) are hereby deleted.
- (h) Amendment to the Foreign Investment and Technology Transfer Act, 1992 (2049): Sub-section (1a.) of Section 5 of the Foreign Investment and Technology Transfer Act, 1992 is hereby deleted.
- (i) Amendment to the B. P. Koirala Institute of Health Sciences Act, 1992 (2049): The word "income-tax" contained in the second line of Section 21 of the B. P.

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<sup>319</sup> Removed by Republic Strengthening and Some Nepal Laws Amendment Act, 2010.

<sup>320</sup> Removed by the Republic Strengthening and Some Nepal Laws Amendment Act, 2010.

<sup>321</sup> Already in force vide the Industrial Enterprises Act, 2016.

Koirala Institute of Health Sciences Act, 1992 is hereby deleted.

(j) Amendment to the Tribhuvan University Act, 1992 (2049): Sub-section (2) of Section 33 of the Tribhuvan University Act, 1992 is hereby deleted.

(k) Amendment to the Electricity Act, 1992 (2049):

(1) The word "income-tax" contained in the heading of Section 12 of the Electricity Act, 1992 is hereby removed.

(2) Sub-sections (1), (2), (3), (4), (5) and (6) are hereby removed.

(l) Amendment to the Pokhara University Act, 1996 (2053): Sub-section (2) of Section 36 of the Pokhara University Act, 1996 is hereby deleted.

(m) Amendment to Section 18 of the B. P. Koirala Memorial Cancer Hospital Act, 1996 (2053): The word "income-tax" contained in sub-section (1) of Section 18 of the B. P. Koirala Memorial Cancer Hospital Act, 1996 is hereby deleted.

(n) Amendment to the Town Development Fund Act, 1996 (2053): Section 24 of the Town Development Fund Act, 1996 is hereby repealed.

(o) Sub-section (1) of Section 34 of the Telecommunications Act, 1996 (2053) is hereby repealed.

(3) All acts and actions performed under the Acts or Sections of the Acts repealed or amended pursuant to sub-section (1) or (2) shall be deemed to have been performed under this Act.

(4) The provisions of the Income Tax Act, 1974 (2031) shall apply to the provisions relating to the assessment and collection of income tax for the income year prior to the commencement of this Act.

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- Note: (1) Words converted by Some Nepal Law Amendment Act, 2063 (2006):  
"Government of Nepal" instead of "His Majesty's Government"
- (2) Words converted by the Administration of Justice Act, 2073 (2016):  
"High Court" instead of "Appellate Court"

## Schedule-1

(Relating to Section 4)

### Rates of Tax

1. In the case of individual: <sup>322</sup>(1) Tax shall be levied by the following rate on the taxable income of any resident individual in any income year, subject to sub-sections (2) and (4) of this Schedule:
  - (a) Where the taxable income from employment is up to four hundred thousand rupees, one percent,
  - (b) Where the taxable income is more than four hundred thousand rupees but less than five hundred thousand rupees, four thousand rupees up to four hundred thousand rupees pursuant to clause (a), and ten percent on the taxable income of more than four hundred thousand rupees,
  - (c) Where the taxable income is more than five hundred thousand rupees but less than seven hundred thousand rupees, fourteen thousand rupees up to five hundred thousand rupees pursuant to clause (b), and twenty percent on the taxable income of more than five hundred thousand rupees,
  - (d) Where the taxable income is more than seven hundred thousand rupees but less than twenty lakh rupees, fifty-four thousand rupees up to seven hundred thousand rupees pursuant to clause (c), and thirty percent on the

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<sup>322</sup> Amended by the Financial Act, 2019.

taxable income of more than seven hundred thousand rupees,

- (e) Where the taxable income is more than twenty lakh rupees, additional twenty percent tax to the rate of tax under clause (d), to the extent of the taxable income that so exceeds.

Provided that the tax referred to in clause (a) shall not be levied on the income earned by way of pension, in the case of a taxpayer registered as a sole trading firm, and on the income of an individual making contribution to a pension fund or contributory social security fund.

<sup>323</sup>(2) Tax shall be levied by the following rate on the taxable income of any couple making a choice pursuant to Section 50 in any income year, subject to sub-section (4) of this Schedule:

- (a) Where the taxable income from employment is up to four hundred fifty thousand rupees, one percent,
- (b) Where the taxable income is more than four hundred fifty thousand rupees but less than five hundred fifty thousand rupees, four thousand five hundred rupees up to four hundred fifty thousand rupees pursuant to clause (a), and ten percent on the taxable income of more than four hundred fifty thousand rupees,
- (c) Where the taxable income is more than five hundred fifty thousand rupees but less than seven hundred fifty thousand rupees,

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<sup>323</sup> Amended by the Financial Act, 2019.

thousand rupees, fourteen thousand rupees up to five hundred fifty thousand rupees pursuant to clause (b), and twenty percent on the taxable income of more than five hundred fifty thousand rupees,

- (d) Where the taxable income is more than seven hundred fifty thousand rupees but less than twenty lakh rupees, fifty-four thousand rupees up to seven hundred fifty thousand rupees pursuant to clause (c), and thirty percent on the taxable income of more than seven hundred fifty thousand rupees,
- (e) Where the taxable income is more than twenty lakh rupees, additional twenty percent tax to the rate of tax under clause (d), to the extent of the taxable income that so exceeds.

Provided that the tax referred to in clause (a) shall not be levied on the income earned by way of pension, in the case of a taxpayer registered as a sole trading firm,<sup>324</sup> pension fund and on the income of an individual making contribution to a contributory pension fund.

<sup>325</sup>(3) The provision contained in sub-section (4) of this Schedule shall apply in the following circumstances:

- (a) In the case of a resident individual, where the income is more than four hundred thousand rupees in any income year or in the case of a resident couple who has made a

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<sup>324</sup> Inserted by the Financial Act, 2020.

<sup>325</sup> Amended by the Financial Act, 2019.

choice referred to in Section 50, where the income is more than four hundred fifty thousand rupees in any income year, and

- (b) Where the net profit derived from the disposal of non-business taxable assets is included in the computation of the income and corresponding taxable income of that individual or couple.

<sup>326</sup>(4) Tax shall be levied on the following person as follows, subject to sub-section (3) of this Schedule:

- (a) Tax shall be levied at the rate referred to in sub-section (1) or (2) of this Schedule on the amount whichever is higher of the following amounts, as if only it were the taxable income of that individual or couple:

- (1) The amount remaining balance after subtracting the amount of profits from the total taxable income of that individual or couple,

- (2) Four hundred thousand rupees, in the case of that individual, or four hundred fifty thousand rupees, in the case of that couple.

- (b) Tax shall be levied by ten percent on the remaining amount of that taxable income.

Provided that,

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<sup>326</sup> Amended by the Financial Act, 2019.

(1) Tax shall be levied at the rate of two and half percent if the ownership of disposed non-business taxable assets (land and house) is of five years or more than five years.

(2) Tax shall be levied at the rate of five percent if the ownership of disposed non-business taxable assets (land and house) is of less than five years.

<sup>327</sup>(3) Tax shall be levied on the profit earned from the disposal of interest having ownership over for more than three hundred sixty five days at the rate of five percent and seven and half percent for having ownership over for less than three hundred sixty five days for a resident individual in entity enlisted in the Securities Board of Nepal.

(5) For an individual working in such remote area as specified by the Government of Nepal, a maximum sum of fifty thousand rupees for the remote allowance shall be deducted as prescribed from the taxable income, and tax shall be computed only on the remaining pursuant to this Section.

(6) For an employee working in a diplomatic mission of Nepal situated abroad, seventy-five percent amount of the foreign allowance shall be deducted from the taxable income, and tax shall be computed on the remaining pursuant to this Section.

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<sup>327</sup> Amended by the Financial Act, 2021.

(7) The amount of tax pursuant to sub-section (4) of Section 4 of this Act shall be as follows:

- (a) In the case of an individual carrying on a business in the area of a Municipal Corporation or Sub-Municipal Corporation, seven thousand five hundred rupees,
- (b) In the case of an individual carrying on a business in the area of a Municipality, four thousand rupees,
- (c) In the case of an individual carrying on a business in any place other than that mentioned in clauses (a) and (b), two thousand five hundred rupees.

(8) Tax shall be levied by twenty-five percent on the taxable income of a non-resident individual in any income year.

<sup>328</sup>(9) .....

<sup>329</sup> (9a) Notwithstanding anything contained elsewhere in this Section if any individual has income from pension, tax shall be calculated in the amount remained after deduction of twenty- five percent amount shall be deducted from the amount as mentioned in clause (a) of sub-section (1) for individual or clause (a) of sub-section (2) for couple.

Provided that the ceiling of such deducted amount shall not exceed the prescribed amount.

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<sup>328</sup> Removed by the Financial Act, 2020.

<sup>329</sup> Inserted by the Financial Act, 2021.

<sup>330</sup>(10) Notwithstanding anything contained elsewhere in this Section, where any resident individual is a person with disability, tax shall be computed pursuant to this Section only on the amount remaining balance after subtracting from the taxable income an additional fifty percent of the amount mentioned in clause (a) of sub-section (1) for the individual or in clause (a) of sub-section (2) for the couple.

<sup>331</sup>(11) Notwithstanding anything contained elsewhere in this Section, where any resident individual is a woman earning income only as remuneration, such individual shall get ten percent exemption from the tax amount to be paid by him or her.

<sup>332</sup>(12) Notwithstanding anything contained elsewhere in this Section, where any resident individual has made investment insurance, tax shall be computed only in the amount that remains after deduction of the annual premium or twenty-five thousand rupees, whichever is lesser, from the taxable income.

<sup>333</sup>(13) Notwithstanding anything contained elsewhere in this Section, the following annual tax shall be recovered from the owner of a rented motor vehicle at the time of registration and renewal of the vehicle through the Department of Transport Management:

Type of motor vehicle	Annual tax payable per vehicle

<sup>330</sup> Inserted by the Financial Act, 2018.

<sup>331</sup> Inserted by the Financial Act, 2018.

<sup>332</sup> Inserted by the Financial Act, 2018.

<sup>333</sup> Inserted by the Financial Act, 2018.

(1) Car, jeep, van, micro bus	
(a) up to 1300 cc	Rs.4,000/-
(b) from 1300 cc to 2000 cc	Rs.4,500/-
(c) from 2001 cc to 2900 cc	Rs.5,000/-
(d) from 2901cc to 4000 cc	Rs.6,000/-
(e) from 4001 cc to all above	Rs.7,000/-
(2) Mini truck, minibus, water tanker	Rs.6,000/-
(3) Mini tipper	Rs.7,000/-
(4) Truck, bus	Rs.8,000/-
(5) Machinery equipment such as dodger, excavator, loader, roller, crane	Rs.12,000/-
(6) Oil tanker, gas bullet, tipper	Rs.12,000/-
(7) Tractor	Rs.2,000/-
(8) Power tiller	Rs.1,500/-
(9) Auto rickshaw, three-wheeler, tempo	Rs.2,000/-

(14) <sup>334</sup> .....

(15) <sup>335</sup> .....

<sup>334</sup> Removed by the Financial Act, 2019.

<sup>335</sup> Removed by the Financial Act, 2019.

<sup>336</sup>(16) Notwithstanding anything contained elsewhere in this Section, where any resident individual has procured health insurance from any insurance company, tax shall be computed, in accordance with this Section, only in the amount that remains after deducting the annual premium paid for such insurance or twenty thousand rupees, whichever is lesser, from the taxable income.

<sup>337</sup>(16a) Notwithstanding anything contained elsewhere in this Section if any resident individual have insurance of his or her private building having his or her ownership with resident insurance company, tax shall be calculated in an amount remained after deduction of paid annual premium of five thousand rupees, whichever is less, from the taxable income.

<sup>338</sup>(17) In computing tax for transaction turnover pursuant to sub-section (4a) of Section 4A. of this Act, tax referred to in sub-section (4) of Section 4 of this Act shall be levied on the amount of up to thirty lakh rupees, and tax shall be levied at the following rate on the transaction turnover exceeding that:

- (a) for a person conducting transaction of goods including gas, cigarette by adding up to three percent commission or price, 0.25 percent of the transaction turnover of more than thirty lakh rupees and up to fifty lakh rupees and 0.3 percent of the transaction turnover of more than fifty lakh rupees and up to one crore rupees,

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<sup>336</sup> Inserted by the Financial Act, 2018.

<sup>337</sup> Inserted by the Financial Act, 2021.

<sup>338</sup> Amended by the Financial Act, 2021.

- (b) for a person conducting a business other than that mentioned in clause (a), one percent of the transaction turnover of more than thirty lakh rupees and up to fifty lakh rupees and 0.8 percent of the transaction turnover of more than fifty lakh rupees and up to one crore rupees ,
- (c) for a person conducting a service business, two percent of the transaction amount.

2. In the case of entity: (1) Tax shall be levied by twenty-five percent on the taxable income of any entity in any income year, subject to <sup>339</sup>sub-sections (2), (3), (5) and (7) of this Section.

(2) Tax shall be levied at the rate of thirty percent on the taxable income of any bank, financial institution, an entity carrying on general insurance business <sup>340</sup>or telecommunication and internet service, money transfer, capital market business, securities business, merchant banking business, commodity future market, securities and commodities broker business, conducting transaction of cigarette, bidi, cigar, chewing tobacco, powder tobacco, gutkha, panmasala, liquor, beer or petroleum works pursuant to the Nepal Petroleum Act, 2040(1983), in any income year.

Explanation: "Taxable income", in the case of petroleum works, means the taxable income assessed in accordance with the procedures mentioned in the petroleum agreement and this Act and the Rules framed under this Act.

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<sup>339</sup> Amended by the Financial Act, 2019.

<sup>340</sup> Inserted by the Financial Act, 2018.

<sup>341</sup>(3) Tax shall be levied at the following rate on the turnover, except tax exempt turnover, of a cooperative registered under the Cooperatives Act, 2074 (2017):

- (a) If being operated in the area of a Municipality, seventy-five percent of the rate of applicable tax,
- (b) If being operated in the area of a Sub-Municipal Corporation, seven percent,
- (c) If being operated in the area of a Metropolitan city, ten percent.

(3a)<sup>342</sup> .....

(4)<sup>343</sup> .....

<sup>344</sup>(5) Tax shall be levied pursuant to sub-sections (1) and (4) of Section 1 of this Schedule on the taxable income of a person acquiring or taking care of the property of any deceased resident person, or of a trust of a resident individual with disability as if such person acquiring or taking care of such property or such trust were a resident individual.

(6) Tax shall be levied at the rate of <sup>345</sup>five percent on the income sent abroad by any non-resident person's foreign permanent establishment situated in Nepal in any income year.

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<sup>341</sup> Amended by the Financial Act, 2020.

<sup>342</sup> Removed by the Financial Act, 2019.

<sup>343</sup> Removed by the Financial Act, 2019.

<sup>344</sup> Amended by the Financial Act, 2018.

<sup>345</sup> Amended by the Financial Act, 2018.

<sup>346</sup>(7) Tax shall be levied at the rate of five percent on the taxable income of any non-resident person in respect of the income mentioned in Section 70 in any income year.

Provided that tax shall be levied at the rate of two percent in the case of a non-residential person providing water transport, air transport or telecommunication service that does not so depart or transmit from Nepal as not to reach another foreign country.

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<sup>346</sup>Amended by the Financial Act, 2018.

Schedule-2

(Relating to Section 19)

Assessment of Depreciation Deduction

1. Categorization and classification of depreciable property: (1) The depreciable property shall be categorized as follows:

Category	Description of property
"A"	Building, structure and similar other structures of permanent nature.
"B"	Computer, data processing equipment, furniture, fixture and office equipment.
"C"	Automobiles, buses and mini-buses.
"D"	Construction and excavation equipment, and the depreciable properties not included elsewhere including in sub-section (3) of Section 17, sub-section (3) of Section 18, and sub-section (3) of this Schedule.
"E"	Intangible properties except the depreciable properties mentioned in category "D".

(2) Any depreciable property owned and used by any person in any income year in making income from a business or investment shall be placed in the category as follows at the time when it came under ownership or came in use for the first time, and

the categories shall be deemed as the category of the depreciable property of that person in that year:

(a) In respect of the similar properties under ownership or in use of that person, the depreciable properties referred to in categories "A", "B", "C" or "D" in the same category of other properties of that category.

(b) In respect of the depreciable property referred to in category "E", they have to be placed under different classes notwithstanding that the properties are of the same category.

(3) The cost incurred in the excavation of natural resources, extraction of minerals and its development in the course of earning income from a business shall be deemed as the cost incurred in purchasing the property for the business related with that income.

2. Depreciation cost: (1) Any person may, in any income year, deduct cost equivalent to the depreciation in that year of the property of each class computed pursuant to sub-sections (2) and (6) of this Section, for the classes of the depreciable properties belonging to that person.

(2) A person has to compute the depreciation deduction of the properties of the class in his income year by using the following formula:

$$\frac{A \times B}{100}$$

"A" means the depreciation base amount in the class of the property at the end of that income year.

"B" means the rate of depreciation deduction mentioned in Section 3 of this Schedule, applicable to that class.

(3) The depreciation base amount of the depreciable properties in category "A", "B", "C" or "D" at the end of any income year has to be set by subtracting the amount referred to in the following clause (c) from the total of the following clauses (a) and (b).

Provided that the amount so subtracted shall not be less than zero:

(a) The remaining amount after deducting depreciation cost of that class computed pursuant to sub-sections (2) and (6) from the depreciation deduction base amount of that class at the end of last year.

(b) The expenses referred to in <sup>347</sup>sub-section (5) of this Schedule or added to the class within that income year and incurred for the properties added to that class, on the depreciation deduction base amount of that class in that year.

(c) Any amount derived from the disposal of any property of that class in that year.

(4) The depreciation deduction base amount of each depreciable property in category "D" at the end of any income year shall be a total sum of the following amounts:

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<sup>347</sup> Amended by the Financial Act, 2018.

- (a) The depreciation deduction base amount of the depreciable properties remaining in the class at the end of last income year, and
- (b) The amount added pursuant to sub-section (5) for the property within that class to the depreciation deduction base amount in that fiscal year.

(5) The cost incurred for any depreciable property included in any class of the depreciable property belonging to any person has to be added as follows to the depreciation base amount of the class concerned:

- (a) That property has to be computed as per the following formula and added by considering the first value in the time whichever is later out of the time in which that property is included in the class pursuant to Section 1 and the time in which expenses are made to acquire that property:

$$\frac{A}{3XB}$$

For purposes of this clause, 'A' shall have the following value for the following period:

- i. The end time of the period from the beginning of the income year to the last day of Poush (mid-January) shall be three,
- ii. The period from Magha (January/February) to the last day of Chaitra (13 April) shall be two, and

iii. The period from Baisakh (April/May) to the last day of the income year shall be one.

“B” means that that cost amount.

(b) The remaining part of the cost shall be added in the income year following the income year in which the first part was added. Provided that the class was not dissolved pursuant to sub-section (2) of Section 4 of this Schedule in the meantime of that period.

(6) Where, in deducting the depreciation cost to be computed pursuant to sub-section (2) of this Section from the depreciation deduction base amount of the depreciable properties of categories "A", "B", "C" or "D", it be less than two thousand rupees, all the remaining amounts has to be computed for additional depreciation cost.

3. Rate of depreciation: (1) The rate of depreciation applicable in the case of each class mentioned in sub-section (2) of Section 2 of this Schedule shall, subject to sub-section (2), be as follows:

Category	Rate
"A"	5 percent
"B"	25 percent
"C"	20 percent
"D"	15 percent

"E"	The rate, in percentage, to be set by adjusting in the nearest half year after dividing the cost of that property at the time of its purchase by the period of use of that property.
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<sup>348</sup>(2) The projects mentioned in sub-section (2) of Section 19 and the entities as referred to in sub-sections (2b), (3f), (3q) of Section 11 and sub-section (3) of Section 2 of Schedule-1 of this Act shall get an addition of one-thirds to the rate of depreciation applicable to the depreciable properties mentioned in categories "A", "B", "C" and "D" mentioned in sub-section (1) of this Schedule.

<sup>349</sup>(3) Any person may claim fifty percent of the capitalized amount of the property capitalized for the generation of energy required for his or her business purpose, for depreciation cost in the same year.

<sup>350</sup>(4) Where any person has issued bills, invoices through a fiscal printer and cash machine, that person may claim a lump sum of the expenses incurred in such printer and cash machine, for depreciation cost in the same year.

4. Disposal of depreciable property: (1) If clause (a) is more than clause (b) in computing the income of any person from the disposal of the depreciable property or properties used in the business or investment in that income year, such excess amount has to be included in the income.

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<sup>348</sup> Amended by the Financial Act, 2020.

<sup>349</sup> Inserted by the Financial Act, 2018.

<sup>350</sup> Inserted by the Financial Act, 2018.

- (a) The incomings derived from the disposal of his depreciable property in any income year falling in category "A", "B", "C" or "D" of the class of any person,
- (b) The depreciation deduction base amount remaining at the end of that year of the class pursuant to sub-section (3) of Section 2 of this Schedule, without including the income derived from the disposal.

(2) If any person disposes all the properties in the class of depreciable property of that person prior to the expiration of any income year, the class shall be deemed to be dissolved, and it shall be as follows:

- (a) Where the depreciation deduction amount to be set in computing depreciation as per the following formula of the property in the class of depreciable property is more than the depreciation deduction base amount, that person shall be deemed to have received such excess amount for that year.

A–B or

- (b) Where the depreciation deduction amount to be set in computing depreciation as per the following formula of the property in the class of depreciable property is more than the depreciation deduction base amount, that person shall get remission of such excess amount of expenses in that year.

B–A

Explanation: For purposes of this Section, -

- (1) "A" means the incomings derived or to be derived by any person from the disposal of that property in that year,
- (2) "B" means the total amount of clauses (i), (ii) and (iii) as follows:
  - (i) The remaining value of the descending system of the class in that year,
  - (ii) The outgoings of that year added to the depreciation base amount of the class, and
  - (iii) The outgoings to be added to the depreciation base amount of the class in the forthcoming year pursuant to sub-section (5) of Section 2.
- (3) For purposes of this Schedule, the remaining value of the descending system of the class of depreciable property in any income year means the following amount:
  - (a) In the case of category "A", "B", "C" or "D" of the class, of any person, the amount to be set by subtracting depreciation, if any, of the class computed pursuant to sub-sections (2) and (6) of Section 2 of this Schedule for that year from the depreciation base amount

remaining at the end of the preceding income year of that class,

- (b) In the case of category "D" of the class, the amount to be set by subtracting all the expenses of the preceding income years which the person is allowed to deduct pursuant to sub-section (1) of Section 2 of this Schedule 2 from the depreciation base amount remaining at the end of preceding income year.